

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Stull was employed by Walgreen Company from October 27, 2001 until September 6, 2005. He was last employed full time as a manager trainee. He was discharged for falsifying his time records.

Mr. Stull indicated on his time records that he had arrived at work at 11:30 p.m. on September 20, 21, and 22 and at 11:40 p.m. on September 25. His actual arrival times were 11:43, 11:55, 11:55, and 11:52 p.m., respectively. He was not scheduled to be at work until 12:00 midnight on all four dates. When confronted by the employer on September 26, Mr. Stull acknowledged that he had written in incorrect start times. He indicated he claimed the additional time to make up for those occasions on which he had to stop and help customers or perform other work-related tasks after having punched out for the day. There was no indication that Mr. Stull had kept a record of such occasions. He had never discussed the issue with any member of management. There are areas on the time sheet in which Mr. Stull could have noted any necessary adjustments to his recorded time. The above matter was the sole reason for Mr. Stull's discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Stull was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Stull was discharged for claiming that he worked more hours than he actually worked. Such conduct would result in the employer paying him for time he did not actually work. He told the employer he padded his hours so that he would be compensated for time spent working after he had clocked out on various occasions. He did not participate in the hearing to offer testimony concerning the extent to which he worked after clocking out. Mr. Stull has not established that he spent a comparable amount of time working after his shift as the excess hours he claimed on his time sheet. Furthermore, he never notified anyone in management that he was adding in hours to make up for time spent working after his shift. He never gave any indication on the time sheet that he was making adjustments.

Absent any evidence that Mr. Stull actually worked the additional time he claimed, the administrative law judge must conclude that he gave false information in order to receive pay to which he was not entitled. Such conduct constitutes theft, which is clearly contrary to the type of behavior an employer has the right to expect. It is, therefore, misconduct within the meaning of the law. Accordingly, job insurance benefits are denied. No overpayment results from this reversal of the prior allowance as Mr. Stull has not been paid benefits on his claim filed effective September 25, 2005.

DECISION:

The representative's decision dated October 12, 2005, reference 01, is hereby reversed. Mr. Stull was discharged by Walgreen Company for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjw