

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**STEFFAN L ROBINSON**  
Claimant

**APPEAL NO. 10A-UI-09655-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LEWIS SYSTEMS OF IOWA INC**  
Employer

**OC: 05-30-10**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 28, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 25, 2010. The claimant did participate. The employer did participate through Adam Frahm, Regional Manager.

**ISSUE:**

Was the claimant discharged due to job related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an ATM servicer and messenger full time beginning April 28, 2008 through June 2, 2010 when he was discharged. On May 29, 2010 the manager found the claimant had left the on call van unlocked, with the keys in the ignition, the on call cell phone and the keys to the ATM machines inside the unattended van. On May 24 through May 26 the claimant and his coworkers were trained on the new key hand off procedures. The claimant was specifically instructed that he was not to just leave the keys and equipment in the van for the next employee who was coming on duty, but was to personally hand off the keys, equipment to the employee and to record on a form the key and equipment transfer. After the claimant's training on May 24 through 26, his former manager Richard Forest did not work again, so there is no way that Mr. Forest could have instructed the claimant to ignore the new training he had been given by Mr. Frahm. The claimant simply chose to ignore the new policy for hand off of keys and equipment. By leaving the van unlocked, unattended with keys and equipment inside, the claimant jeopardized the employer's and their clients' valuables.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). From time to time employers may change operating procedures and work rules. An employee is expected to follow those changes. The claimant was trained on the new procedures less than one week before he chose to ignore them. The administrative law judge is not persuaded that any manager told the claimant he could ignore the new procedures and policies as Mr. Forest did not even work after the claimant was trained on the new policies. It is reasonable for a security company to ask employees not to leave keys to ATM machines and their company van and equipment unattended. The claimant's choice not to follow the new policies and procedures leaving valuable company assets in jeopardy is conduct not in the employer's best interest and is sufficient misconduct to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The June 28, 2010 (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs