

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUG J STUART
Claimant

APPEAL NO. 09A-UI-08991-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEW CENTURY FS INC
Employer

**Original Claim: 05/17/09
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Doug Stuart filed an appeal from a representative's decision dated June 19, 2009, reference 01, which denied benefits based on his separation from New Century FS, Inc. After due notice was issued, a hearing was held by telephone on July 9, 2009. Mr. Stuart participated personally. The employer participated by Kevin DeGoey, Energy Manager.

ISSUE:

At issue in this matter is whether Mr. Stuart was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Stuart was employed by New Century FS, Inc. from June 30, 2006 until May 11, 2009. He was employed full time in sales and delivery. He was discharged for having alcohol on the premises in violation of a known company rule. He had a bottle of vodka hidden in a shed on the employer's premises. He acknowledged to the employer that the bottle was his. As a result, he was discharged on May 11, 2009.

REASONING AND CONCLUSIONS OF LAW:

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. Stuart was discharged as a result of the employer's policy that prohibits alcohol on the premises. The employer had the right to maintain a work environment that was free of alcohol. Mr. Stuart's conduct compromised the employer's ability to maintain a safe working environment.

Mr. Stuart's conduct constituted a substantial disregard of the standards the employer had the right to expect. For the above reasons, it is concluded that disqualifying misconduct has been established. As such, benefits are denied.

DECISION:

The representative's decision dated June 19, 2009, reference 01, is hereby affirmed. Mr. Stuart was discharged for misconduct in connection with his employment. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw