

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER R GOFF
Claimant

APPEAL NO. 11A-UI-01885-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CROSSROADS OF WESTERN IOWA
Employer

**OC: 01/23/11
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated February 15, 2011, reference 01, that held he was discharged for misconduct on January 29, 2011 and which denied benefits. A telephone hearing was held on April 20, 2011. The claimant participated. Jackie Collins, HR generalist, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began working as a business/developer/recycling coordinator on May 27, 2009, and then became a full-time career developer on December 28, 2010, and last worked for the employer on January 29, 2011. The claimant received the employer policy that includes a provision regarding driving conduct. The policy states that an acceptable driving record is required for all employees whose essential job duties include this requirement. Claimant was required to drive in order to meet with employer business clients. The acceptable driving record must not include two violations or one at-fault accident and one violation within the last three years.

Claimant had an accident while driving his motorcycle on April 1, 2010. He struck a pot hole, lost control, and struck another vehicle. His motor vehicle insurance provider paid for the damage to the other vehicle. A moving violation charge was dismissed. The employer believes his supervisor gave claimant a verbal warning.

On January 5, 2011, claimant had an accident while driving his personal vehicle. He struck another vehicle and his auto insurance provider paid for the damage. A failure to maintain control violation was dismissed after claimant paid for and completed a special driving class.

Claimant reported the most recent accident to his supervisor about five days after the occurrence and it came to the employer's HR department attention on January 19. After submitting the matter to the employer's auto insurance provider, it determined claimant was not insurable due to his at-fault accidents. The employer discharged claimant on January 21, 2011 for violation of its acceptable driver policy and being rendered uninsurable.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on January 21, 2011.

The claimant's accidents were considered as at-fault based on his auto insurance provider paying for the damage to the other vehicles. The latter accident included a failure to maintain control moving violation that was dismissed—not based on the driving conduct, but attending a special driving class. The at-fault accidents violated the employer policy, and rendered claimant uninsurable even though they occurred in his personal vehicles, which constitutes job-disqualifying misconduct.

DECISION:

The department decision dated February 15, 2011, reference 01, is affirmed. The claimant was discharged for misconduct on January 21, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw