

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYLER J TEEL
Claimant

APPEAL NO. 10A-UI-10309-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNION TANK CAR COMPANY
Employer

OC: 06/13/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated July 12, 2010, reference 01, which denied benefits based upon his separation from Union Tank Car Company. After due notice, a telephone hearing was held on September 7, 2010. The claimant participated personally. The employer participated by Ms. Kelly Gillespie, Human Resource Clerk.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Tyler Teel was employed by Union Tank Car Company from December 1, 2008 until June 21, 2010 when he was discharged from employment. Mr. Teel worked as a full-time welder's helper and was paid by the hour.

The claimant was discharged from employment after he violated the terms of a last-chance agreement with Union Tank Car Company by testing positive for a controlled substance on June 18, 2010. The claimant was aware that under the terms of the last-chance agreement he was subject to random testing based upon his previous positive test results. Ms. Teel does not contest the positive test results. The claimant's appeal is based upon his belief that he should receive unemployment insurance benefits because new employers have been unwilling employ him based upon the claimant's belief that Union Tank Car Company has provided negative information about his employability.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant's discharge from employment took place under disqualifying conditions.

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.

Here Mr. Teel was discharged when he violated the terms of a last-chance agreement with Union Tank Car Company by testing positive for controlled substance on or about June 18, 2010. Mr. Teel does not contest the positive test results. The claimant was aware that testing positive for controlled substance would violate the terms of the last-chance agreement and was subject him to immediate discharge from employment. While Mr. Teel agrees that his discharge was disqualifying, it is his belief that the company has provided negative information subsequent to his discharge that has caused other employers in the community to be reluctant to employ him.

The administrative law judge concludes that the evidence in the record is sufficient to establish that the claimant's discharge took place due to a violation of a known company rule after being warned. His conduct showed a disregard for the employer's interests and standards of behavior and thus was disqualifying under the provisions of the Employment Security Law. Conduct alleged by the claimant by the employer subsequent to his discharge cannot be used to nullify the basis for the claimant's discharge from employment and/or the issue of whether the claimant's conduct was disqualifying. Benefits are withheld.

DECISION:

The representative's decision dated July 12, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, providing that he is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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