

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE D DOEPPKE
Claimant

APPEAL NO. 07A-UI-00430-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GMRI INC
Employer

**OC: 12/03/06 R: 03
Claimant: Appellant (2)**

Section 96.6-2 – Timeliness of Appeal
Section 96.5-2-a – Discharge for Misconduct
Section 96.5-1 – Voluntary Leave

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 29, 2006, reference 01, decision that denied benefits based upon her separation from GMRI Inc. After due notice was issued, a telephone conference hearing was held on January 29, 2007. Claimant participated. Participating on behalf of the claimant was Joanie Grife, attorney at law. The employer did not participate.

ISSUE:

The issue is whether Mr. Doeppke's appeal is timely and whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed by GMRI Inc from August 2002 until November 25, 2006, when he was discharged from employment. The claimant held the position of sales manager.

The claimant was discharged after the employer believed that the claimant had violated the company's non-fraternization rule by allowing company employees to visit his motel room on or about November 15, 2006. Although the claimant denied the allegation and witnesses recanted the majority of the allegations, the claimant was nevertheless terminated. Mr. Doeppke had been warned for a similar offense approximately four years before. The claimant's appeal in this matter appears to have been delayed due to delays in the delivery of mail of the US Postal Service during the holiday season.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the employer has not sustained its burden of proof in establishing intentional disqualifying misconduct on the part of the claimant. In this case, it appears that because of an allegation made by a single individual, the employer believed that the claimant had violated the company's non-fraternization rule. Although the claimant denied the allegation and other witnesses verified Mr. Doeppke's account, a decision was nonetheless made to terminate the claimant as he had been warned for a similar offense in the past.

In this case, the claimant appeared personally and provided sworn testimony. The claimant's testimony was not inherently improbable. There being no evidence of equal weight, the administrative law judge must rule that the weight of evidence has been established in favor of the claimant. No misconduct has been established. Benefits are allowed.

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.

DECISION:

The December 29, 2006, reference 01, representative's decision is hereby reversed. The claimant was discharged under non-disqualifying conditions. Benefits are allowed, provided the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/kjw