

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD N SEARS**  
Claimant

**THE IOWA CLINIC PC**  
Employer

**APPEAL NO: 09A-UI-11018-S**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/28/09**  
**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 July 24, 2009, reference 01 that held he was discharged for misconduct on June 26, 2009, and benefits are denied. A hearing was held on August 17, 2009. The claimant participated. Marian Klein, HR Employment/Coordinator, participated for the employer. Employer Exhibits One through Four 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 employment as a full-time courier on January 20, 2003. One of the conditions of the claimant's employment was that he have a valid driver's license. The claimant notified his supervisor on June 15, 2009 that his Iowa driver's license had been revoked, and his license seized by a West Des Moines police department officer after a traffic stop. The employer allowed the claimant to use some PTO time from June 16 to June 26 in order to obtain license re-instatement.

The claimant notified his employer on June 26 that his license had not been re-instated, and the employer responded with a letter of termination on the same date. Since having a valid license was a condition of claimant's employment, and driving was a requirement for his work duties, the employer terminated the claimant for not having a driver's license. When the claimant failed to obtain his license, the employer offered the claimant's courier job to another person that was accepted on July 7.

The claimant was stopped by a West Des Moines police officer who notified the claimant of his license revocation and seized his license. The claimant later learned the revocation was due to his failure to pay a traffic ticket, and it cost him \$890.00 to re-instate the license on July 10.

**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 June 26, 2009, for not having a valid driver's license in violation of company policy that was as a condition of employment.

The claimant knew at the time of hire and throughout the course of employment he was required to have a valid driver's license as a condition of his courier-driver job. The license revocation was due to claimant misconduct in failing to pay a traffic ticket. While the employer policy allowed for re-instatement/re-hire of employment, it was not required to extend the claimant's employment during the period he sought the re-instatement of his driver's license. The employer did give the claimant a grace period of ten days prior to termination that it was not required to do so.

**DECISION:**

The department decision dated July 24, 2009, reference 01, is affirmed. The claimant was discharged for misconduct on June 26, 2009. 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 the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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