

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**JAMES E LEEPER  
809 – 12<sup>TH</sup> ST  
ONAWA IA 51040**

**US POSTAL SERVICE  
STATE COORDINATOR  
PO BOX 189994  
DES MOINES IA 50318**

**Appeal Number: 05A-UCFE-00007-H2T  
OC: 12-19-04 R: 02  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 10, 2005, reference 02, decision that denied benefits. After due notice was issued, a hearing was held on March 9, 2005. The claimant did participate. The employer did participate through Marilyn Hannan, Postmaster. Employer's Exhibit One was received.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a letter carrier full time beginning August 15, 1998 through December 16, 2004 when he was suspended. The claimant remains suspended while the employer is proceeding through the grievance process with his termination.

The claimant was suspended for stealing mail that he was to deliver to residents on his route as well as for failing to deliver addressed mail to residents on his route. The postal investigation records found in Employer's Exhibit One clearly indicate that mail that was addressed to others on the claimant's route was either not delivered or kept by the claimant. The claimant admitted to the postal inspectors both in writing and verbally that he had failed to deliver addressed mail, kept mail addressed to others and opened mail and used coupons sent to others on his route. The claimant's written admission is found in Employer's Exhibit One.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

871 IAC 24.32(9) provides:

(9) Suspension or disciplinary layoff. Whenever a claim is filed and the reason for the claimant's unemployment is the result of a disciplinary layoff or suspension imposed by the employer, the claimant is considered as discharged, and the issue of misconduct must be resolved. Alleged misconduct or dishonesty without corroboration is not sufficient to result in disqualification.

An employer has a right to expect employees to conduct themselves in a certain manner. The claimant disregarded the employer's rights by stealing mail that did not belong to him, opening mail that should have been delivered to others on his route and to stealing coupons sent to people on his route. The claimant's allegation at this hearing that he lied to the postal investigators when he admitted his misconduct simply not believable. The administrative law judge concludes that the claimant is prevaricating now in an attempt to secure unemployment insurance benefits. There is no medical evidence to support the claimant's contention that by taking Wellbutrin he was forced to lie to postal investigators. The postal investigators found in the claimant's trash and in his house mail that belonged to persons on his mail delivery route. The claimant admitted taking the mail and failing to deliver it. His actions are misconduct sufficient to disqualify him from receiving unemployment insurance benefits. The claimant's disregard of the employer's rights and interests is misconduct. Benefits are denied.

DECISION:

The February 10, 2005, reference 02, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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