

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY W FARRIS
Claimant

APPEAL NO. 08A-UI-11389-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

NEIGHBORHOOD PATROL INC
Employer

OC: 01/13/08 R: 02
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Jeremy Farris filed an appeal from a representative's decision dated November 26, 2008, reference 06, which denied benefits based on his separation from Neighborhood Patrol, Inc. (NPI). After due notice was issued, a hearing was held on December 29, 2008, in Des Moines, Iowa. Mr. Farris participated personally and offered additional testimony from Dan Bronemann. The employer participated by Dick Rogerson, Director of Human Resources, and David Lee, Operations Manager.

ISSUE:

At issue in this matter is whether Mr. Farris was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Farris was employed by NPI from March 18 until October 16, 2008 as a full-time security officer. He was assigned to patrol the parking ramps and flat lots for the City of Des Moines. He was issued a two-way radio for use in maintaining contact.

David Lee met with Mr. Farris on October 14 as a result of a complaint from the City of Des Moines that Mr. Farris was not responsive to attempts to reach him over the radio. The client also felt he was not devoting sufficient time to patrolling the ramps. This conclusion was based on the times between his entrances to the ramps. Mr. Farris used a pass card to access parking ramps. Based on the small amount of time between when he entered one ramp and when he entered the next ramp, it was felt he was not patrolling all floors of the structures. Mr. Lee verbally warned him that he was to fully perform his duties and respond to the radio contacts.

The decision to discharge Mr. Farris was based on an additional complaint from the client on October 16. The complaint was that the client had been unable to contact Mr. Farris by radio and could not visually locate him at any parking sites for over an hour. He was eventually

located at the flat lot at 11th Street and MLK Parkway. He was seated in his vehicle, which was parked between two trailers. As a result of his failure to be available, Mr. Farris was discharged.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Farris was discharged for not performing the essential functions of his job. He was verbally warned about his failures on October 14. In spite of the warning, he was again unresponsive to radio contacts on October 16. It was an integral part of his job to be constantly available in case he was needed for an emergency. He could not respond to his employer's client's needs if he was not making himself available to radio calls.

Mr. Farris was expected to patrol all floors of the parking ramps and to drive through the flat lots to determine if there were problems. On October 16, he was found at a flat lot parked between two trailers. The fact that he was parked between two trailers and was unresponsive to radio contacts for over an hour suggests that he was doing something other than performing his job. A security officer cannot provide the required security if he is inattentive to his job duties. Given his job function, the administrative law judge concludes that Mr. Farris' conduct of October 16 constituted a substantial disregard of the standards the employer had the right to expect. His conduct was also contrary to the standards reiterated to him by Mr. Lee on October 14. For the reasons stated herein, it is concluded that misconduct has been established and benefits are denied.

DECISION:

The representative's decision dated November 26, 2008, reference 06, is hereby affirmed. Mr. Farris was discharged by NPI for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw