

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TROY CLARK**  
Claimant

**APPEAL NO: 09A-UI-14678-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELU INC**  
Employer

**OC: 08-30-09**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 24, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 28, 2009. The claimant participated in the hearing. Julie Frommelt, President, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time outside sales representative for Welu Inc. from May 1, 2008 to August 31, 2009. President Julie Frommelt asked the claimant to provide a certificate of liability insurance for his vehicle for several months but the claimant failed to do so. Because Ms. Frommelt felt like the claimant was stalling she became suspicious and completed a Department of Transportation (DOT) form for information August 27, 2009, and learned the claimant did not have a valid driver's license August 29, 2009. She checked Iowa Courts Online and found the claimant had three DUI's and that his license had been revoked and then he was barred for being a habitual offender. He testified he lost his driver's license in 2000 and does not have a valid license and did not have one at the time of hire. He showed the employer an old driver's license. The claimant admitted he was dishonest about having a driver's license because he wanted to get and keep the job. He is insured but is not sure how he obtained auto insurance without a driver's license. After securing this information the employer left the claimant a voice mail and e-mail August 28 and 29, 2009, and asked him to come in to meet with her August 31, 2009. The claimant did not want to reply and did not go to the meeting. The employer terminated his employment August 31, 2009.

**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.

The claimant admitted he was dishonest about having a driver's license and that he has not had one since the year 2000. He testified he showed the employer an old driver's license when she asked to see it when he was hired. The claimant was required to have a valid driver's license to perform the duties of his position which included driving to Davenport and Waterloo as well as driving around Dubuque. He could not meet the requirements of the job and consequently the employer terminated his employment. The administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Benefits are denied.

**DECISION:**

The September 24, 2009, reference 01, 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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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs