

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW C CHANDLER
Claimant

APPEAL NO. 11A-UI-08164-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHARLES DRAKE & ASSOCIATES
Employer

**OC: 04/17/11
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Charles Drake & Associates (CDA) filed an appeal from a representative's decision dated June 17, 2011, reference 01, which held that no disqualification would be imposed regarding Andrew Chandler's separation from employment. After due notice was issued, a hearing was held by telephone on July 14, 2011. Mr. Chandler participated personally. The employer responded to the notice of hearing. An attempt was made to contact the employer at the scheduled time of the hearing. None of the three persons listed as witnesses were present. The employer did not have anyone else available to participate on its behalf. As of the date of the decision herein, the employer had not contacted the administrative law judge regarding its failure to participate in the hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Chandler worked for CDA, a temporary placement firm, on May 12, 2011. He was sent to Freeman Decorators to work as a laborer. After working two hours and 45 minutes, he was told he could no longer work on the assignment. This information came from Global Spectrum, which was working with Freeman Decorators. He was told that policy prevented him from working at the job site because of his criminal history.

Mr. Chandler had fully disclosed his criminal history when hired by CDA. He immediately notified the employer that he had been asked to leave the assignment. He has not been offered any further work by CDA.

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 § 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. Chandler is unemployed because he was discharged from his assignment with Freeman Decorators on May 12, 2011. Although he was told it was due to his criminal record, he had fully disclosed his criminal background when he made application for work with CDA. It was up to CDA to make sure he was a viable candidate before sending him on an assignment. The evidence wholly failed to establish that the separation was due to some act of misconduct on Mr. Chandler's part.

Inasmuch as the employer failed to satisfy its burden of proving misconduct, no disqualification is imposed.

DECISION:

The representative's decision dated June 17, 2011, reference 01, is hereby affirmed. Mr. Chandler was discharged but misconduct has not been established. Benefits are allowed, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs