

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LANCE HAWKINS**

Claimant

**APPEAL NO: 14A-UI-04570-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GREEN BUICK GMC INC**

Employer

**OC: 03/30/14**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 24, 2014, 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 May 21, and continued on June 11, 2014. The claimant participated in the hearing. Rod Larson, Body Shop Manager and Debra Brown, Payroll Administrator, 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 body shop estimator for Green Buick GMC from January 21, 2013 to March 28, 2014. He was discharged for failing to properly perform the functions of his job.

As a body shop estimator the claimant worked in a busy shop and dealership. When the dealership receives an estimate from an insurance company through email and the owner tells the insurance adjuster he wants the employer to do the work, the insurance adjuster forwards the information to the employer and then it is the employer's responsibility to make an initial contact with the customer and advise him it has the original copy of the estimate and try to schedule the customer with the employer.

The claimant received a verbal warning March 3, 2014, for losing potential work for the shop after the employer found estimates on the claimant's desk which had not been acted upon by the claimant. The employer consequently lost one job worth \$4,800.00. Rod Larson, Body Shop Manager, caught another estimate that had been sitting on the claimant's desk and was able to retain that customer. The employer made it clear to the claimant that a failure to follow through with customers, meet the employer's expectations, and continuing to lose potential business for the shop would not be tolerated. The claimant continued to fail to follow the employer's process and instructions.

On March 18, 2014, the claimant received a verbal warning for failing to flag the folders as required. On a scale of importance of job duties, the employer described flagging folders as an eight out of ten. The claimant was responsible for assigning a technician to each vehicle and when the work is done the technician expects to be paid during that pay period. If the folders are not flagged for payroll the technicians are not paid. Mr. Larson indicated payroll had turned into a "nightmare" because without documentation and flagged folders it was "complete chaos."

On March 19, 2014, the claimant received a written warning regarding a vehicle Mr. Larson allowed the claimant to handle from beginning to end. The car was towed into the shop and the claimant and a technician did a walk around of the vehicle. The claimant made an initial parts order after the vehicle had been torn down and inspected. That step should take place prior to the vehicle being torn down. The claimant pushed the initial parts order through the parts department and the employer was informed the parts were on national backorder and an integral part was coming from overseas. The employer wanted the claimant to stay on top of the job all the way through.

The claimant was also responsible for submitting supplements to the insurance companies. Supplements consist of parts price increases and additional labor charges over the amount of the estimate. He was supposed to submit documentation and photographs at the end of the job but before payment is issued. The supplements were not getting issued and a woman in the office was doing 90 percent of the claimant's supplemental reports. The claimant's failure to submit the supplemental reports caused improper communication with the insurance adjusters. The insurance companies will not pay for the work without prior authorization and without the supplemental reports that was not happening. Consequently, because the claimant was not documenting the process and approvals the employer had to write those off as losses.

The employer also advised the claimant on March 19, 2014, to "get on top" of the paperwork on a Mitsubishi Endeavor because the folder was an "absolute disaster." Mr. Larson told the claimant he had talked to the insurance adjuster and the insurance company. He stated the car had been there for a long time and the claimant had failed to follow through with the job "at all." Among other problems, the claimant had ordered wrong parts and there was no communication with the insurance company. The vehicle had been brought into the employer's shop before Christmas and still was not finished. The employer had to submit four supplemental reports on the vehicle which was a \$10,000.00 job. The employer talked to the insurance adjuster March 19, 2014, and was told the fourth supplement report would not be honored and the insurance company would not pay for any repairs, parts, labor, or rental car fees and the employer had to write those expenses off as losses.

On March 27, 2014, Mr. Larson asked the claimant to make sure he "got on top" of the Mitsubishi folder and be sure all of it was in order so the employer would know what it was getting paid for and what it was not getting paid for. Additionally, the folder had to be up to date because it was the end of the month.

On March 28, 2014, the employer arrived at 5:30 a.m. and found the Mitsubishi folder on his desk and nothing had been done with the folder. Mr. Larson worked on the folder by himself from 6:00 a.m. to 3:00 p.m. None of the parts, prices or labor matched. Mr. Larson labored over that file instead of doing his end of month report, which required he go through every ticket to make sure they were closed and booked out correctly so it shows what the employer did for the month. After going through that process and reflecting on the claimant's performance Mr. Larson concluded he could do the work easier by himself than continually correcting the claimant's work and consequently he terminated the claimant's employment March 28, 2014.

Mr. Larson believed the claimant capable of doing the work and he showed on occasion he had the ability to do his job but his work was sloppy and he had “terrible” organizational and follow-up skills.

**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 § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The claimant was aware of his job duties and the employer's expectations. While it was a busy environment, that did not relieve the claimant of his job obligations. Major responsibilities such as flagging folders and completing supplemental reports for insurance companies were not being done by the claimant which caused substantially more work for the employer, as well as the loss of some business and the employer having to write some items off as losses due to the claimant's failure to perform his job duties. The employer attempted to work with the claimant but despite its direction and specific instructions the claimant was not completing tasks as required. These were not isolated incidents of misconduct but the claimant developed a pattern of not performing his job duties or doing so to the employer's expectations.

Under these circumstances, 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). Therefore, benefits are denied.

**DECISION:**

The April 24, 2014, 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