

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHAN H REITER
Claimant

APPEAL NO. 10A-UI-15913-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 09/19/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 12, 2010, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on January 4, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Jessica Shepard participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer January 1988 to August 19, 2010. He was an operations supervisor with the employer.

The claimant was driving his car to work knowing that he did not have valid driver's license. While he approached the plant, he was pursued by a state patrol officer into the parking lot. He quickly entered the plant and went to the office. The claimant asked an employee to tell the officer that the employee was driving his car, not the claimant, and offered him money if he would lie to the officer. The employee refused to take the blame.

When another supervisor located the claimant and told him that the officer needed to speak to him, he told the supervisor that he did not want to talk to the officer because he was going to arrest him. The supervisor told him that he needed to talk to the officer.

After the claimant talked to the officer, he was arrested for driving while barred, interference with official acts, and driving without working taillights. The claimant was suspended on August 19, 2010, and after an investigation, he was discharged on September 1, 2010, for his actions on August 19, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I do not believe the claimant's testimony that he was just joking with the other employee when he asked him to tell the officer that the employee was driving the vehicle. The claimant's total course of conduct makes it clear that he was trying to avoid being arrested.

The claimant's conduct on August 19 was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated November 12, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css