

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSIAH J PRYMEK**  
Claimant

**APPEAL NO. 09A-UI-18769-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SERRANO SUPPLY INC**  
Employer

**OC: 10/25/09**  
**Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Serrano Supply, Inc. filed an appeal from a representative's decision dated December 8, 2009, reference 02, which held that no disqualification would be imposed regarding Josiah Prymek's separation from employment. After due notice was issued, a hearing was held by telephone on January 28, 2010. Mr. Prymek participated personally. The employer participated by Ray Schmidt, Owner/Manager.

**ISSUE:**

At issue in this matter is whether Mr. Prymek 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. Prymek's last period of employment with Serrano Supply, Inc. began on March 26, 2007. He worked full time as a drywall stocker. On April 30, 2007, he sustained a work-related injury to his right ankle. He returned to work on June 25 and worked until February 29, 2008 when he reinjured the ankle at work.

Mr. Prymek underwent surgeries related to his ankle on April 10 and November 10, 2008 and January 20, 2009. Because he was unable to perform his job, the employer discharged him during the summer of 2009. He was not released to resume work activity until October 28, 2009. His restrictions as of that date are such that he would not have been able to perform his normal job. The inability to perform his job was the sole reason for Mr. Prymek's separation from Serrano Supply, Inc.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is only 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. Prymek was not discharged because of any

conduct that was deliberately or intentionally in violation of the employer's standards or interests. He was discharged solely because his medical condition did not allow him to perform the essential functions of his job. Inasmuch as the inability to perform his job was due to medical reasons, he was not guilty of misconduct within the meaning of the law. Therefore, he cannot be disqualified from receiving job insurance benefits.

**DECISION:**

The representative's decision dated December 8, 2009, reference 02, is hereby affirmed. Mr. Prymek was separated from Serrano Supply, Inc, for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs