

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JOHN K WHITE**  
Claimant

**PER MAR SECURITY & RESEARCH CORP**  
Employer

**APPEAL 19A-UI-06318-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/09/18  
Claimant: Respondent (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated July 31, 2019, (reference 12) that held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 3, 2019. Claimant chose not to participate. Employer participated by Justin Ellyson, Operations Manager.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 15, 2019. Employer discharged claimant on May 15, 2019, because claimant's security officer license was revoked by the State of Iowa.

Employer is a private security company. Each security officer employed by employer has to have a valid and current security officer license to be able to work as a security officer under Iowa law. Employer received notification on May 15, 2019 that claimant's security officer license had been revoked. Claimant was notified that his employment was being terminated immediately on that date.

The State of Iowa does not disclose to the employer why a security license is revoked to protect the privacy of the employee. Employer's policy manual explicitly explains the security officer licensing process, and claimant agreed to those terms at the time he was hired.

**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.

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).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) *Report required.* The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Iowa Admin. Code r. 871-24.32(8) provides:

(8) *Past acts of misconduct.* While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act.

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. Iowa Dep't of Job Serv.*, 299 N.W.2d 698 (Iowa 1980).

The employer is not obligated to, and legally cannot, accommodate an employee during a period when the individual does not have authorization to work as a security officer in the State of Iowa. Obtaining and maintaining a security officer license was a known condition of the

employment, and loss of that license was misconduct sufficient to warrant a denial of benefits. Benefits are denied.

**DECISION:**

The July 31, 2019, (reference 12) unemployment insurance decision is reversed. 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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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/scn