

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

EMILY S HALL
Claimant

**MISSISSIPPI VALLEY REGIONAL BLOOD
CENTER**
Employer

APPEAL 14A-UI-07937-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/29/14
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 24, 2014, (reference 01) unemployment insurance decision that denied benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on August 25, 2014. Claimant participated. Employer participated through director donor services Kathryn Hoover, supervisor Jennifer Pender, and chief people officer Jennifer Feeney. Employer's Exhibit 1 (pages 1 – 43) was received.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a collection specialist driver and was separated from employment on June 11, 2014. Her job requires a valid driver's license for transporting staff and equipment. She was arrested for Operating While Intoxicated (OWI) on April 11, 2014, in Illinois. She notified Pender of the arrest and suspension on April 15. The State of Illinois allowed her to drive for 30 days through May 27. Then the employer made accommodations, pulling staff to work overtime from other sites, for her to work without driving from May 27 through June 11 so she could resolve the issue and get a work permit. Claimant thought that might happen by June 27. She is not eligible for full license privilege restoration until November 27, 2014. On June 5 she told the employer a work permit would allow her to drive to and from work but it would have to install an ignition interlock device on the company vehicle or vehicles for her to drive. The employer declined since there are other drivers that use the vehicles and met with her on June 11 to notify her that it would not continue to accommodate her because it needs a driver in that position.

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).

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 accommodate an employee during a license suspension or revocation period but does have a legal obligation to abide by state and federal transportation safety statutes and regulations and not allow unlicensed individuals to drive. While the license revocation issue was not related to her work, claimant's failure to maintain a valid, unrestricted driver's license as a known condition of the employment was misconduct sufficient to warrant a denial of benefits.

DECISION:

The July 24, 2014, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css