

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES L BOYD**  
Claimant

**APPEAL NO. 12A-UI-11721-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TSI ENTERPRISES INC**  
Employer

**OC: 09/02/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 730.5 – Private Sector Drug-Free Workplaces

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 25, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on October 24, 2012. Claimant participated. Employer participated through Claims Administrator Sarah Fiedler. Employer's Exhibit 1 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 laborer assigned at Grain Processing Corporation and was separated from both the assignment and employment with TSI on August 22, 2012. On August 11 he backed a truck in the parking lot into the building. There is no information about the monetary extent of the damage. The employer investigated and eventually assigned responsibility to the claimant after his initial denial of responsibility. He was not tested until August 21, 2012, nine days after the accident. TSI has a drug screen policy, which the claimant received on July 15, 2009. The medical review officer (MRO) from Trinity Occupational Medicine notified claimant of the positive (marijuana) test results on August 24. Notice of the test result and offer of a split sample test was mailed by certified mail on September 5 and claimant signed the return receipt on September 6. He did not follow instructions to request a split sample.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes 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.

871 IAC 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.

The employer has met the requirements of Iowa Code § 730.5, because claimant received a copy of employer's drug and alcohol use policy, he was tested at a certified testing facility as a result of a work injury, the drug screen was positive for marijuana, claimant was notified by certified mail and offered a split screen sample, and he did not follow instructions for requesting a second test of the split sample. State law does not give a deadline for testing after an accident. Employees are required to be drug free in the workplace. The violation of the known work rule constitutes misconduct. Benefits are denied.

**DECISION:**

The September 25, 2012 (reference 01) decision is affirmed. 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.

---

Dévon M. Lewis  
Administrative Law Judge

---

Decision Dated and Mailed

dml/kjw