

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN YIGAS

Claimant

APPEAL NO. 07A-UI-02260-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OFFICEMAX NORTH AMERICA INC

Employer

**OC: 02/04/07 R: 04
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

John Yigas filed an appeal from a representative's decision dated February 27, 2007, reference 01, which denied benefits based on his separation from OfficeMax North America, Inc. After due notice was issued, a hearing was held by telephone on March 22, 2007. Mr. Yigas participated personally and was represented by Mike Meloy, Attorney at Law. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Yigas was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Yigas was employed by OfficeMax from March of 1998 until February 1, 2007. He worked full-time as a salesman. He was discharged and told that his services were no longer needed. Mr. Yigas had been disciplined for various reasons during the course of his employment.

REASONING AND CONCLUSIONS OF LAW:

Mr. Yigas was discharged by OfficeMax. An individual who was discharged from employment is 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). The employer's burden included establishing that the discharge was predicated on a current act that constituted misconduct within the meaning of the law. See 871 IAC 24.32(8). It was incumbent upon the employer to provide specific details concerning the reason for discharge as mere allegations of misconduct are not sufficient to result in disqualification from benefits. See 871 IAC 24.32(4). The employer did not participate in the hearing to provide testimony concerning the reason for Mr. Yigas' discharge. The employer was given notice that documents that may have been

submitted for the fact-finding interview would not be a part of the hearing record unless there was a specific request to have them admitted. There was no such request by the employer.

The administrative law judge concludes that the employer has failed to provide evidence to satisfy its burden of proof in this matter. As such, there is no basis in the record for disqualification. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated February 27, 2007, reference 01, is hereby reversed. Mr. Yigas was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css