

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DUSTIN L FRANZEN
Claimant

APPEAL NO. 08A-UI-08584-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A-LERT
Employer

**OC: 08/10/08 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 15, 2008, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on October 22, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Julie Sumner participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a construction laborer from May 8 to August 5, 2008. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer before the start of their shift if they were not able to work as scheduled.

On the evening of August 5, 2008, the claimant's car was damaged due to a collision with a deer. The windshield was broken and hood damaged, and the car could not be driven until the damage was repaired. The claimant lives in Sabula, Iowa, and the worksite was outside of Cedar Rapids over two hours away. The claimant had been commuting to and from the worksite.

Before the start of his shift on August 6, 2008, the claimant called and spoke to his supervisor, John Cowles. He told him about the accident and that he did not have his own transportation to get to work until his car was fixed. He told Cowles that he was trying to get a ride to work.

The claimant was not able to get his car fixed or find a ride to work on August 7, 2008. He failed to call his supervisor before the start of his shift but instead called and left a message for Cowles on the afternoon of August 7 stating he had not been able to get his car fixed or found a ride to work yet.

The claimant did not report to work or notify his supervisor before the start of his shift on August 8 due to transportation problems. He called Cowles on the evening of August 8. He told Cowles that he would get his car fixed over the weekend and would be able to work on Monday, August 11. Cowles told the claimant that he was terminated due to his unreported absences.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

While the claimant had a legitimate reason for missing work, he did not have any excuse for failing to follow the employer's work rules, which required him to call in and notify the employer that he would not be at work before the start of his shift. This violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated September 15, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css