

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAYLOR D PRIEST
Claimant

APPEAL NO. 13A-UI-08541-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC
Employer

OC: 05/26/13
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Taylor Priest, filed an appeal from a decision dated July 15, 2013, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 28, 2013. The claimant participated on his own behalf. The employer, Express Services, participated by Professional Recruiter Lisa Anderson.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Taylor Priest was employed by Express Services from December 17, 2012 until May 28, 2013. He was assigned to McGraw-Hill. Due to his excessive absenteeism and tardiness, plus “poor attitude,” the client company notified Professional Recruiter Lisa Anderson it wished to have Mr. Priest removed from the assignment.

Ms. Anderson notified the claimant by phone of the end of his assignment. He asked if there were any other openings where he could be assigned and she told him with his poor attendance record it might be difficult to find another assignment for him. She also told him his personal items would be packed up from his desk at McGraw-Hill and he could pick them up at the front security desk. He wanted to be able to go back to his desk and make sure all his items had been retrieved but was told McGraw-Hill would not allow that.

The next day he went to the former workplace and waited while the box containing his personal items were brought to him. After checking the contents he declared some papers were missing, personal papers not related to his work at the client. These were retrieved but then a disagreement ensued and he was asked to leave. He called the police claiming he had been assaulted by the security guard. The police did not find any evidence of assault and asked the claimant to leave, which he did.

Mr. Priest contacted Ms. Anderson the next day wanting to know the name of the company which provided security of McGraw-Hill. She declined to give him that information and informed him Express Services would not be placing him for any further assignments.

REASONING AND CONCLUSIONS OF LAW:

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 claimant had been removed from his assignment due to poor attendance and poor attitude. The employer indicated further assignments might be difficult given these problems, but was at least willing to try as of May 27, 2013. The decision to discharge was partly based on this but precipitated by the claimant's conduct at the client's place of business the next day. His conduct was discourteous and unprofessional, giving the client a very negative view of the caliber of personnel provided by Express Services. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of July 15, 2013, reference 02, is affirmed. Taylor Priest is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs