

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY F COFFMAN
Claimant

APPEAL NO. 08A-UI-02494-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAX I WALKER
Employer

OC: 10/07/07 R: 01
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Kelly Coffman filed an appeal from a representative's decision dated March 3, 2008, reference 06, which denied benefits based on his separation from Max I Walker. After due notice was issued, a hearing was held by telephone on March 27, 2008. Mr. Coffman participated personally. The employer participated by Mark Stanek, Vice President.

ISSUE:

At issue in this matter is whether Mr. Coffman 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. Coffman was employed by Max I Walker from January 15 until January 30, 2008 as a full-time route driver. He had a valid Iowa driver's license at the time of hire. On or about January 29, the employer ran a motor vehicle report and learned that his license was suspended effective January 1, 2008. The Iowa Department of Transportation had attempted to notify Mr. Coffman of the suspension but the notice was sent to an address where he no longer lived. Because he no longer had the valid driver's license that was necessary for his job, Mr. Coffman was discharged on January 30, 2008.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Coffman was discharged because he did not have a valid driver's license. Where an individual's own conduct renders him unemployable by his employer, he is guilty of misconduct within the meaning of the law. See Cook v. Iowa Department of Job Service, 299 N.W.2d 698 (Iowa 1980).

In the case at hand, Mr. Coffman's license was suspended for conduct that occurred prior to his employment with Max I Walker. Since the suspension was effective January 1, 2008, the administrative law judge presumes that the employer could have learned of the suspension prior to hiring Mr. Coffman on January 15, 2008. It appears that the employer did not run a motor vehicle report prior to making the hiring decision. Because the suspension was based on conduct that predated his employment, the administrative law judge must conclude that Mr. Coffman did not engage in any conduct during the employment that caused him to be unable to continue the employment. Since he did not engage in any misconduct during the employment, there is no basis on which to disqualify him from receiving benefits.

DECISION:

The representative's decision dated March 3, 2008, reference 06, is hereby reversed. Mr. Coffman was discharged but misconduct in connection with the employment 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