

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEREMY J CAMPBELL
Claimant

APPEAL NO: 06A-UI-08783-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAN KRUSE PONTIAC INC
Employer

**OC: 07/23/06 R: 04
Claimant: Respondent (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Dan Kruse Pontiac, Inc. (employer) appealed a representative's August 30, 2006 decision (reference 02) that concluded Jeremy J. Campbell (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 18, 2006. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Jerry Elbert, the service and detail manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on November 14, 2005. Elbert became the claimant's supervisor on May 27, 2006. After Elbert began supervising the claimant, he talked to the claimant about his work ethic. Elbert told the claimant he needed to make some improvements or his job would be in jeopardy. In July Elbert thought the claimant was making some improvements.

On July 25, the claimant reported to work as usual and then left for lunch. The claimant did not come back to work after lunch. The claimant did not call the employer to let the employer know he was unable to report back to work. Elbert called the claimant's home several times when the claimant did not report back to work. Elbert left messages for the claimant to call back Elbert. The claimant did not return Elbert's phone call.

When Elbert saw the claimant, he asked the claimant why he had not come back from lunch. The claimant indicated he was looking for another job. Even though the claimant understood the employer could discharge him for failing to return to work after lunch, the claimant did not report back to work. The employer then informed the claimant that his services were no longer needed.

The claimant established a claim for unemployment insurance benefits during the week of July 23, 2006. The claimant has not filed any weekly claims.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's conduct on July 25 amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The claimant committed work-connected misconduct on July 25. Therefore, as of July 23, 2006, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 30, 2006 decision (reference 02) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of July 23, 2006. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw