

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DESI DRUSCHEL

Claimant

MOUNT MERCY UNIVERSITY

Employer

APPEAL NO. 14A-UI-04557-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/23/14

Claimant: Appellant (1)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Desi Druschel (claimant) appealed an unemployment insurance decision dated April 22, 2014, (reference 01), which held that he was not eligible for unemployment insurance benefits because he was discharged from Mount Mercy University (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 21, 2014. The claimant participated in the hearing with Attorney Jeff Tronvold. The employer participated through Dianne Austad, Executive Assistant to the President and Scot Reisinger, Athletic Director. Employer's Exhibits One and Two and Claimant's Exhibits A through C were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged for work-related misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as baseball coach from January 3, 2005, through March 21, 2014, when he was discharged. He had been placed on a Personal Improvement Plan (PIP) on June 17, 2013, in order to build a stronger relationship with his players and to recruit a higher quality student to represent the employer's baseball team. Despite monthly meetings, the claimant's actions did not always translate into the desired results. He believed his actions were helping him with a team connection but the students disagreed.

During a trip out of town on the night of March 8, 2014, there was an incident in a hotel room in which nine team players were involved in the possession and consumption of alcohol. These actions were a direct violation of the Baseball Team Handbook and the Athletic Department Policy, but were also in violation of state law since some of the players were underage. The players were immediately suspended from the double header on the following day, which was appropriate. What the employer determined was not appropriate was the fact that these players were confined on the bus for at least seven hours without the claimant providing them with any food or drink. The rest of the team ate food provided by the parents after the first game. The claimant contends the bus driver provided a sandwich to one of the players.

Less than a week later on March 13, 2014, the team arrived at a hotel in Crete, Nebraska at approximately 11:30 p.m. and after arriving, the claimant forced the players to do conditioning drills for up to 90 minutes. These drills were done in the parking lot and road next to the hotel. The termination letter states, "These conditioning drills were punishment for the team for not wearing Mount Mercy team gear when they stopped on the way to their game site." A Crete police officer stopped and directed the group to stay off the road and out of the roadway. The police officer provided a written statement in which he explained that he believed the group of men were part of the Doane College fraternities' initiation activities because, "...I have seen similar activities from them during pledge week before."

The employer testified that several players suffered physical injuries as a result of these "conditioning drills" but the claimant testified he was unaware of this fact. He was discharged on March 21, 2014, based on his extremely poor judgment and lack of respect for the players.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-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. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on March 21, 2014, for repeated poor judgment and conduct detrimental to the team members and the employer. A technical compliance with the athletic rules does not justify his actions. It is quite significant that the Crete police officer considered the claimant's conditioning drills to be similar to fraternity pledge week activities. The employer has met its burden. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated April 22, 2014, (reference 01), is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css