

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DAMIEN A ISLAS
300 N FILLMORE
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GREAT PLAINS COMPANIES INC
ATTN-PATRICIA WITTSTRUCK
1 CARLSON PKWY STE 120
PLYMOUTH MN 55447

Appeal Number: 05A-UI-11185-SWT
OC: 10/09/05 R: 03
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 26, 2005, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on November 16, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Steve Baker participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked for the employer as a production employee from April 13, 2004, to October 5, 2005. On September 30, 2005, the police arrested the claimant while he was in the plant working. He was lodged in jail. He was released from jail on October 1. He worked as scheduled on October 4 and 5.

On October 6, the plant manager discharged the claimant because the police took him into custody, which the manager considered to be damaging to the employer's reputation. The offense took place in the claimant's vehicle and outside of his work hours. He was charged with and pleaded guilty to leaving the scene of an accident, for which he received a fine.

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.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of

unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

The reason that the employer discharged the claimant was because he was arrested at work. No work-connected misconduct has been proven. The conduct that led to the discharge took place while the claimant was off-duty in his personal vehicle. The employer contended that the conduct violated the rule prohibiting boisterous or disruptive activity in the workplace or the rule prohibiting insubordination or disrespectful conduct. Neither rule would logically apply to the claimant's off-duty offense in this case.

DECISION:

The unemployment insurance decision dated October 26, 2005, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

saw/tjc