

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFF A SHOOK
Claimant

APPEAL 17R-UCFE-00037-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 12/25/16
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct – Requalification

STATEMENT OF THE CASE:

Jeff A. Shook (claimant) filed an appeal from the May 24, 2017, reference 05, unemployment insurance decision that denied benefits based upon the determination he had not requalified for benefits by earning ten times his weekly benefit amount in insured wages since his disqualifying separation from USPS (employer) on December 22, 2016. After due notice was issued, a telephone conference hearing was held on August 24, 2017. The claimant participated.

ISSUE:

Has the claimant requalified for benefits since his disqualifying separation on December 22, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was separated from employment on December 22, 2016, when he was placed on a disciplinary suspension. The claimant opened his claim for benefits the week of December 25, 2016. The claimant's weekly benefit amount (WBA) is \$548.00.

Iowa Workforce Development (IWD) issued an unemployment insurance decision dated January 19, 2017, reference 01, which denied the claimant benefits based on the determination he was suspended for violating company rules. The decision explained the claimant would remain disqualified until he earned wages for insured work equal to ten times his WBA. It also contained a warning that if an appeal was not filed by January 29, 2017, the decision would become final. The claimant did not file an appeal to the decision as he was not filing his continued weekly claim for benefits. After opening his claim for benefits and before receiving this decision, the claimant learned the employer was required to pay his regular wage while he was suspended as he is a veteran. The claimant was discharged from the employer in May 2017, for the same incident that led to his suspension in December, after receiving \$21,000.00 of income during his suspension. He did not perform any work for the employer after December 22, 2016.

The claimant now works for Domino's Pizza part-time. The administrative record shows the claimant started reporting wages on his continued weekly claim for benefits the week of June 11, 2017. He has reported gross wages totaling \$807.00 earned through the week ending August 26, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant has not requalified for benefits since his disqualifying separation on December 22, 2016. Benefits are denied.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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. (Emphasis added.)

The plain language of the statute states in order to requalify for benefits, the individual must have worked in and been paid wages for insured work. While the claimant received income from the employer, he did not perform any work to receive the income. The claimant currently works for Domino's Pizza on a part-time basis, but has not earned sufficient wages to requalify him for benefits. Benefits are denied.

DECISION:

The May 24, 2017, reference 05, unemployment insurance decision is affirmed. The claimant has not requalified for unemployment insurance benefits since his disqualifying separation on December 22, 2016. Benefits are denied.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn