

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CASEY L ANDEREGG**  
Claimant

**APPEAL NO. 07A-UI-04115-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARAMARK SERVICES INC**  
Employer

**OC: 03/25/07 R: 02  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Aramark, filed an appeal from a decision dated April 12, 2007, reference 01. The decision allowed benefits to the claimant, Casey Anderegg. After due notice was issued a hearing was held by telephone conference call on May 8, 2007. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Food Service Director David Borzo. Exhibit One was admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Casey Anderegg was employed by Aramark from February 22 until April 3, 2007, as a full-time employee. The application for employment he filled out on January 29, 2007, and one of the questions asked if he had ever been convicted of a crime, either misdemeanor or felony. He answered he had been convicted of driving with a suspended license in 2002.

The claimant was hired and signed a consent form allowing the employer to do a criminal background check on him. Aramark received the report on Friday, March 30, 2007, and Mr. Anderegg's criminal background was a good deal more extensive than he had admitted on the application. He had been convicted of possession of a controlled substance twice, several traffic violations plus failure to pay his fines, and suspended as a habitual offender. In addition to the citation of driving with a suspended license in 2002, he was convicted of the same thing in January 2006. Part of his job duties included driving and he did have a work permit.

Food Service Manager David Borzo reviewed the information from the background check and compared it to the claimant's application. It was determined he had falsified the application and when Mr. Anderegg was confronted by Mr. Borzo, he admitted to not putting down the full extent of his criminal convictions, and apologized. He was discharged at that time.

Casey Anderegg filed a claim for unemployment benefits with an effective date of March 25, 2007, but the records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

**REASONING AND CONCLUSIONS OF 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).

871 IAC 24.32(6) provides:

(6) False work application. When a willfully and deliberately false statement is made on an Application for Work form, and this willful and deliberate falsification does or could result in endangering the health, safety or morals of the applicant or others, or result in exposing the employer to legal liabilities or penalties, or result in placing the employer in jeopardy, such falsification shall be an act of misconduct in connection with the employer.

The claimant deliberately falsified his work application by not indicating the full extent of his criminal background. Whether or not a full disclosure would have changed the employer's

decision to hire him is not the issue. He failed to give the employer accurate information so that it could make a decision based on full disclosure. It could have made a difference in what job he was assigned to do and could have exposed the employer to legal liability, especially in the area of driving.

The claimant deliberately falsified his application for employment. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

**DECISION:**

The representative's decision of April 12, 2007, reference 01, is reversed. Casey Anderegg is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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