

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT J LUCAS
Claimant

ALLSTEEL INC
Employer

APPEAL 15R-UI-10000-DL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/15
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 4, 2015, (reference 02) unemployment insurance decision that denied benefits. A telephone hearing was held on July 21, 2015, by administrative law judge (ALJ) Teresa Hillary who reversed the unemployment insurance decision and allowed benefits in her decision 15A-UI-06829-H2-T. The employer appealed and the Employment Appeal Board remanded for further development of the record solely on the question of whether the employer sent the drug screen results to claimant via certified mail as required by Iowa Code § 730.5.

The parties were properly notified about the hearing scheduled for and held on September 21, 2015. Claimant did not respond to the hearing notice instruction and did not participate. Employer participated through member and community relations business partner Emily Bennett and hearing representative Kenneth Kjer of Employers Edge. Because the EAB did not vacate the original appeal decision 15A-UI-06829-H2-T, that hearing record, including exhibits, is adopted and incorporated herein. No additional exhibits were offered.

ISSUES:

Should the original appeal decision be adopted?

Was the claimant suspended or placed on a leave of absence for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's findings of fact in appeal number 15A-UI-06829-H2-T is hereby adopted and incorporated herein as the findings of fact for appeal number 15R-UI-10000-DL-T.

This decision adds: The employer did not provide any documentary evidence that the drug screen results were provided to claimant via certified mail. There was no indication on the April 27, 2015, letter (Employer's Exhibit 1) that it was sent by certified mail. It is the employer's practice to send such notices via certified mail. Bennett did not receive a signed return receipt, and there was no copy maintained of an original request for return receipt.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's reasoning and conclusions of law in appeal number 15A-UI-06829-H2-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal number 15R-UI-10000-DL-T.

This decision adds: While the employer's practice might be to send such notices by certified mail, since the employer has not established that it was done in this instance, it has not met the strict specific requirements of Iowa Code § 730.5.

DECISION:

Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the administrative law judge's decision in appeal number 15A-UI-06829-H2-T is hereby adopted and incorporated herein as the decision for appeal number 15R-UI-10000-DL-T. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/pjs