

**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**

**LESLIE R HOLT  
415 – 8<sup>TH</sup> ST SE  
MASON CITY IA 50401**

**COMPREHENSIVE SYSTEMS INC  
1700 CLARK ST  
PO BOX 457  
CHARLES CITY IA 50616**

**Appeal Number: 06A-UI-06069-HT  
OC: 05/07/06 R: 02  
Claimant: Appellant (1)**

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Leslie Holt, filed an appeal from a decision dated June 1, 2006, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 5, 2006. The claimant participated on his own behalf. The employer, Comprehensive Systems, participated by Director of Personnel Sheryl Pringle.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Leslie Holt was employed by Comprehensive

Systems from December 17, 2003 until May 10, 2006. He was a part-time member of the direct support staff.

On May 9, 2006, the claimant and his spouse, also an employee of Comprehensive Systems, attended an in-service and staffing meeting. Prior to that meeting Mr. Holt had allowed one of the clients to drive his personal vehicle in a parking lot. After the meeting his spouse asked two supervisors, Mary Amsbaugh and Ellen Hinecker, if it was okay for a client to drive the vehicle. Both said under no circumstances was it acceptable. Mr. Holt heard these pronouncements.

Later that same day the client again wanted to drive Mr. Holt's vehicle on a country gravel road and he allowed it. He knew at the time the supervisors has stated this activity was not permitted, and that this client did not have either a learner's permit or a driver's license. The client told another staff member about the incident and the claimant was discharged the next day.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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 claimant knew without any doubt or uncertainty he was not permitted to allow clients to operate his personal vehicle. He also knew the client was not authorized to drive as she lacked either a learner's permit or a driver's license. Mr. Holt's only explanation was that he suffers from ADD and is "impulsive" and that driving without a license or permit is done by "half the people in the state." The administrative law judge does not find either of these arguments to be adequate to excuse his conduct. Not only did he violate the law by permitting an unauthorized person to drive his vehicle, he was in direct violation of clear instructions from two separate supervisors.

His reckless conduct could have resulted in an accident causing injury to himself, the client and/or a third party. It also exposed the employer to legal liability as this activity was done on work time. This is conduct not in the best interests of the employer and the claimant is disqualified.

**DECISION:**

The representative's decision of June 1, 2006, reference 01, is affirmed. Leslie Holt is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

bgh/cs