

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CARL B CARLSON
Claimant

HENNINGSEN CONSTRUCTION INC
Employer

APPEAL 15A-UI-06883-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 3/22/15
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 10, 2015, (reference 01) unemployment insurance decision that denied benefits based on misconduct. The parties were properly notified about the hearing. A telephone hearing was held on July 20, 2015. Claimant participated. Employer participated through payroll employee Jena Lovell.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a truck driver from July 17, 2013, and was separated from employment on May 27, 2015, when he was terminated.

Claimant understood he had to possess a valid Commercial Driver's License (CDL) to maintain his job as truck driver.

On May 26, 2015, claimant was arrested and charged with Operating While Intoxicated (OWI). Claimant informed his foreman, Darwin, of the charge the next day, May 27, 2015. Darwin terminated claimant immediately because he believed claimant would lose his license and his ability to legally drive. Although claimant is fighting the charge, his CDL was suspended ten days after being charged with OWI.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer is not obligated to accommodate an employee during a license suspension or revocation period but does have a legal obligation to abide by state and federal transportation safety statutes and regulations and not allow unlicensed individuals to drive. While the license revocation issue was not related to his work, claimant's failure to maintain a valid, unrestricted driver's license as a known condition of the employment was misconduct sufficient to warrant a denial of benefits.

DECISION:

The June 10, 2015, (reference 01) unemployment insurance decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Christine A. Louis
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Decision Dated and Mailed

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