

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARK A MCGLUMPHRY
Claimant

APPEAL NO: 13A-UI-09648-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PILOT TRAVEL CENTERS LLC
Employer

OC: 07/14/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 15, 2013, reference 03, that held he was discharged for misconduct on June 19, 2013, and benefits are denied. A telephone hearing was held on September 25, 2013. The claimant did not participate. Will Sanders, Regional Manager, participated for the employer.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on September 24, 2012, and last worked for the employer as a full time general manager on June 11, 2013. The employer has an anti-drug workplace policy that prohibits the purchase of drugs.

The employer regional manager received an employee report that claimant had been purchasing pills containing amphetamines on multiple occasions. The employee was upset because claimant kept badgering him about it.

The regional manager confronted claimant on June 11 and he admitted the pill purchases. The employer discharged claimant for violation of its anti-drug workplace policy.

The claimant failed to respond to the hearing notice and the department record (APLT) screen shows no call in to UI Appeals.

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.

The administrative law judge concludes employer established claimant was discharged for misconduct on June 19, 2013 for violation of its anti-drug workplace policy.

Claimant admitted purchasing pills that contain amphetamines on multiple occasions that is a violation of policy and job disqualifying misconduct.

DECISION:

The department decision dated August 15, 2013, reference 03, is affirmed. The claimant was discharged for misconduct on June 19, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs