

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

SHANE A GRAMBLIN
1201 HAMILTON RD
WEBSTER IA 50595

PDM DISTRIBUTING SERVICES INC
c/o MERIT RESOURCES INC
4165 – 120TH ST
DES MOINES IA 50323

Appeal Number: 05A-UI-03444-DWT
OC: 01/30/05 R: 01
Claimant: Appellant (2)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Shane A. Gramblin (claimant) appealed a representative's March 25, 2005 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits, and the account of PDM Distribution Services, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 20, 2005. The claimant participated in the hearing. Mike Kleppe, the chief financial officer, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in September 2003. The claimant worked as a full-time supervisor until the employer reduced his hours. The claimant filed a claim for partial benefits in late January 2005. When the claimant started working less than 40 hours a week, he started looking for another job. The employer knew the claimant was looking for another job.

The claimant talked to the employer's president on February 23, 2005. The claimant knew there were rumors going around that the claimant was using drugs. During his conversation, the claimant explained that while he had been sober for four years, he had a relapse on New Year's Eve. Although the claimant only had "one hit" off a marijuana cigarette that night, the claimant immediately felt terrible about doing this. The claimant did not have any other relapses. The claimant offered to be evaluated to see if he needed to go to a rehabilitation center and volunteered to take a drug test. Even though the employer had not observed anything suggesting that the claimant came to work under the influence and this incident occurred when the claimant was not working, the employer discharged the claimant because he used an illegal drug. The employer considered this single incident a violation of the employer's drug policy.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established compelling business reasons for discharging the claimant. The evidence does not, however, establish that the claimant intentionally and substantially violated the employer's drug policy. Instead, the claimant had a relapse on New Year's Eve when he was off work. This isolated incident during off-work hours does not rise to the level of work-connected misconduct. Therefore, as of February 20, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 25, 2005 decision (reference 03) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 20, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/pjs