

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAYMOND PECK
Claimant

APPEAL NO: 13A-UI-02486-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARVS GLASS SPECIALTIES INC
Employer

OC: 01-13-13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 21, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 28, 2013. The claimant participated in the hearing. Rob Miller, General Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time fourth year apprentice glazier for Marv's Glass Specialties from December 3, 2012 to December 12, 2012. At the time of hire General Manager Rob Miller asked the claimant to provide his driver's license and social security card. The claimant provided an Illinois photo identification card and Mr. Miller did not notice it was only an identification card rather than a driver's license until December 12, 2012. On December 12, 2012, the claimant called Mr. Miller approximately ten minutes prior to the start of his shift and stated he had been stopped and detained by law enforcement personnel and did not have a valid driver's license. He asked Mr. Miller if he and another glazier would come to West Liberty to pick him up and drive his car back to the shop and Mr. Miller refused and told the claimant to remove the employer's tools and equipment from his car. The claimant asked for a couple days to get things straightened out and Mr. Miller denied his request. Mr. Miller notified the claimant his employment was terminated December 12, 2012.

The employer requires that employees have a valid driver's license as a condition of employment because while they drive their personal vehicles to the shop they drive the employer's vehicles when they leave the shop to perform work for the employer's customers.

The claimant was aware of that requirement at that time of hire and when Mr. Miller asked him to produce his driver's license as well as his social security card.

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 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 claimant knew he was required to have a valid driver's license to perform the essential functions of his job but deliberately misled Mr. Miller when asked for his driver's license and social security card. The claimant knew he did not have a valid license but instead of being honest with Mr. Miller he provided him with an Illinois identification card rather than a valid driver's license, which look very similar to each other. Because he presented it as his driver's license, Mr. Miller did not notice it was an identification card instead of a driver's license until the claimant called him and stated he had been stopped by the police and did not have a valid driver's license December 12, 2012. While the claimant testified he always carried a state identification card with a valid driver's license, his testimony was not credible. He knew he did not have a license, and had not had one for approximately six years, but chose to lie about the situation instead of being straightforward with Mr. Miller, who would have been prevented from hiring him. Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right

to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The February 21, 2013, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs