

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANK D CAREY JR
Claimant

IA DEPT OF CORRECTIONS/FT MADISON
Employer

APPEAL NO: 09A-UI-16620-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/27/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
Section 17A.12(3) – Default

STATEMENT OF THE CASE:

The claimant appealed a department decision dated October 23, 2009, reference 01, that held he was discharged for misconduct on September 29, 2009, and benefits are denied. A telephone hearing was scheduled for December 10, 2009. The claimant did not participate. David Williams, Representative, participated for the employer.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: The claimant failed to respond to the hearing notice and provide a telephone number to be contacted for the hearing. The employer moved to default the claimant for his failure to appear, and the motion was granted.

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.

The administrative law judge concludes the employer motion to default that was granted due to the failure of the claimant to appear (respond to the hearing notice) for the hearing, and it establishes that claimant was discharged for misconduct on September 29, 2009.

The claimant appealed the department decision, but failed to appear for the hearing to contest the discharge. The claimant is defaulted pursuant to Iowa Code section 17A.12(3), and the department decision remains in force and effect.

DECISION:

The department decision dated October 23, 2009, reference 01, is affirmed. The claimant was discharged for misconduct on September 29, 2009. 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