

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODY R CAMPS
Claimant

APPEAL NO: 07A-UI-00108-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HIGHWAY 141 SUBWAY CO LLC
Employer

**OC: 11/19/06 R: 02
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for misconduct

STATEMENT OF THE CASE:

Mr. Camps filed an appeal from a representative's decision dated December 21, 2006, reference 03, that denied benefits. After due notice was issued, a telephone conference hearing was held on January 22, 2007. Mr. Camps did participate with Kim Youngguist. The employer participated through Darcy Anderson, Jane Colinson, and Laurie Hilton.

ISSUE:

The issue is whether the Mr. Camps was discharged for misconduct or voluntarily left his employment for reasons attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed the evidence in the record, the administrative law judge finds: Mr. Camps was employed by this company from August, 2004 until November 2, 2006 when he was discharged for failure to report or provide notice. Mr. Camps worked as a clerk on a part-time basis and was paid by the hour.

Mr. Camps had been given Monday and Tuesday of his final week of employment off so that he could recover from what he previously had reported as illness. The claimant was normally scheduled off on Wednesdays. Mr. Camps was expected to report for scheduled work on Thursday, November 2, 2006. When the claimant did not report, he was left a short, terse message by the manager indicating in effect that if he did not report or notify the company he would be discharged. Mr. Camps called the manager and was specifically told at that time that he was expected and scheduled to report that day for work. Mr. Camps did not give the manager any reason for not reporting and Ms. Anderson, as well as another employee who witnessed the conversation, believed that the claimant would be reporting as directed. When the claimant did not report and did not again report for scheduled work, he was discharged from employment.

REASONING AND CONCLUSIONS OF LAW:

Mr. Camps was discharged from his employment after he failed to report for scheduled work on November 2, 2006 after being specifically instructed to do so by the facilities manager. During the final conversation between the parties, Mr. Camps did not indicate in any manner that he was sick or unable to report for scheduled work and was specifically told to report that day with no other conditions required. When the claimant did not report or provide additional notification and did not report again for scheduled work the following day, he was discharged from employment.

Although the administrative law judge is aware that Mr. Camps believes that some previous confusion in scheduling is related to his termination from employment, the administrative law judge based upon the evidence in the hearing, does not agree. The evidence establishes that during the final conversation, Mr. Camps was specifically told to report for work and did not indicate to his employer any reason that would prevent him from doing so. The claimant's failure to report or provide additional notification shows a willful disregard for the employer's interests and reasonable standards of behavior and thus is disqualifying conduct under the provisions of the Iowa Employment Security Law.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

DECISION:

The representative's decision dated December 21, 2006, reference 03 is hereby affirmed. The claimant was discharged under disqualifying conditions and benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/pjs