

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AARON M WATTS
Claimant

APPEAL NO. 07A-UI-05790-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNITED PARCEL SERVICE
Employer

**OC: 05/13/07 R: 04
Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Aaron Watts filed an appeal from a representative's decision dated May 29, 2007, reference 01, which denied benefits based upon his separation from United Parcel Service. After due notice was issued, a hearing was held by telephone on June 26, 2007. Mr. Watts participated personally with witness Mr. Ryan Boling. Although duly notified, the employer did not participate.

ISSUE:

At issue in this matter is whether Mr. Watts was discharged for misconduct in connection with his work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from May 3, 2002 until May 9, 2007 when he was discharged for excessive tardiness. Mr. Watts was employed as a revenue auditor on a part-time basis. His immediate supervisor was Angie Abdullah.

Mr. Watts was discharged after he continued to report to work late after being warned by the company. Mr. Watts suffers from a medical/psychological condition which requires that he take prescription sleep and anti-anxiety medications. Although the claimant reported to the company that the medications prescribed by his physician caused him to be drowsy and at times to oversleep and be late for work, the claimant was nonetheless discharged from employment. The claimant's physician was willing to issue a statement to the employer indicating that the prescribed medication was causing problems with Mr. Watts' punctuality.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes, based upon the evidence in the record that the employer has not sustained its burden of proof in establishing intentional disqualifying misconduct on the part of the claimant. The evidence in the record establishes that Mr. Watts suffers from a medical/psychological condition which requires that he take prescription

medications. The medications in turn cause the claimant to be drowsy and to at times oversleep causing him to be late. Mr. Watts followed a reasonable course of action by attempting to vary his work hours and medications and also by informing the employer regarding the basis for his punctuality issues. Although the claimant was willing to provide a medical statement to the employer demonstrating that his lack of punctuality was due to medical reasons, the claimant was nonetheless discharged from employment.

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.

For the reasons stated herein the administrative law judge finds that intentional disqualifying misconduct on the part of the claimant has not been shown. The claimant was discharged and for the convenience of the employer under nondisqualifying conditions. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated May 29, 2007, reference 01, is hereby reversed. The claimant was discharged under nondisqualifying conditions. Benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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