

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHAD C DAVIS
Claimant

APPEAL NO. 07A-UI-01789-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALPLA INC
Employer

**OC: 01/21/07 R: 03
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Alpla, Inc., filed an appeal from a decision dated February 12, 2007, reference 01. The decision allowed benefits to the claimant, Chad Davis. After due notice was issued a hearing was held by telephone conference call on March 6, 2007. The claimant participated on his own behalf. The employer participated by Human Resources Representative Julie Underwood, Plant Manager David Norris and Manager Erin Hazen. Exhibits One and A were admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Chad Davis was employed by Alpla, Inc., from July 13, 2004 until January 19, 2007, as a full-time traffic planner.

In July 2006, the claimant was authorized to go to Chicago, Illinois, for a work-related training session. The hotel reservation was made on the corporate credit card account assigned to Manager Erin Hazen, for one night. The claimant had originally made the reservation himself with the corporate credit card on an Internet web site, but cancelled it when he was told only the administrative assistant was to make the reservations. He asked to have the reservation increased to an additional one or two nights for personal business, but he was to put that charge on his own credit card. He did not do this, instead he put the entire stay on the company card and never reimbursed the company for the charges

In addition, he was authorized to use another company credit card for mileage and meals. However, he also used it to "hold" a rental car he intended to use because his own transportation was not reliable. He did use his own credit card to pay for the vehicle when he picked it up and continued to rent vehicles from Hertz throughout the remainder of the year.

In October 2006, he used the same on-line travel web site he had used to make the initial reservation in Chicago to reserve a hotel in Des Moines, Iowa, for his own use and neglected to change the credit card account information on the web site. The credit card numbers was the corporate account he had used in July. The charge came through onto the corporate account and he did pay it back even though several requests for the funds were made.

In January 2007, the claimant notified the employer's accounting department there might be a charge in excess of \$3,000.00 on the company credit card account from Hertz. Mr. Davis was delinquent on the money he owed to Hertz for the vehicles he had continued to rent for several months because of a garnishment on his wages. The car was repossessed in late December 2006 or early January 2007, and he was told the bill had already been paid via the credit card account number on record, Alpha's account from being used to "hold" the car in July 2006.

An investigation was done by Plant Manager David Norris and he interviewed the claimant on January 17, 2007. Mr. Davis explained the circumstances, admitting he had set up the account on line with Hertz, using the company credit card to "hold" the car, back in July. The employer attempted to dispute the charge and have the account number removed from the claimant's Hertz account without success. Mr. Davis' personal account number was submitted to Hertz but it was denied.

The claimant was suspended pending discharge on January 18, 2007, while the employer reviewed the situation, and then discharged on January 19, 2007, by Ms. Hazen, for misuse of the company credit card.

Chad Davis has received unemployment benefits since filing a claim with an effective date of January 21, 2007.

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.

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 was discharged for misuse of the company credit cards. Although he has maintained none of it was intentional, the number of incidents strains the credibility of this assertion. One incident is an error in judgment, three or four becomes a pattern of negligence, irresponsibility and behavior that is highly suspicious. He did not repay the employer of the additional nights in the Chicago hotel, even though he was supposed to have put that charge on his own credit card immediately. This was an intentional refusal to pay a legitimate debt he owed for improper and intentional misuse of the credit account. In addition, he took liberties with the employer's credit card by using it to "hold" the rental car in July, and then never removing that account number from the record.

The claimant's personal financial difficulties, having his wages garnished which contributed to his failure to pay the rental car company, resulted in having the employer's account number charged for his personal vehicle rental expenses. This is sort of potential, if not necessarily planned, misuse of the company credit account is the reason for rules and regulations governing employee use of corporate accounts. The claimant's negligence in the use of this account, plus his failure to adequately monitor his various financial transactions, resulted in loss to the employer of nearly \$4,000.00 between the money owed to Hertz and for his personal hotel stay. This is conduct not in the best interests of the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which he is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of February 12, 2007, reference 01, is reversed. Chad Davis is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible. He is overpaid in the amount of \$2,004.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs