

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JOYCE A HUMBLE
1602 BURTON AVE
WATERLOO IA 50703**

**COVENANT MEDICAL CENTER
C/O PERSONNEL – EMPLOYMENT COORD
3421 W 9TH ST
WATERLOO IA 50702**

**Appeal Number: 05A-UI-05649-LT
OC: 05-08-05 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the May 24, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 15, 2005. Claimant did participate. Employer did participate through Suzanne Burt and Crystal Petersen.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time materials assistant for the dietary department through May 6, 2005 when she was discharged. Claimant called Crystal Petersen on May 6 and told her she was charged with an OWI and lost her license. Claimant drives for employer to transport the food products and having a valid driver's license is part of her job description.

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 § 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.

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).

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. Cook v. IDJS, 299 N.W.2d 698 (Iowa 1980).

Claimant lost her driver's license because of her own illegal action of operating a motor vehicle while intoxicated. Although insurability was not at issue in this case, a valid driver's license was a substantive requirement of the claimant's job duties involving food deliveries. The employer is not obligated to accommodate the claimant during license suspension period but does have an obligation to protect the public safety by keeping impaired or unlicensed drivers off the road. The employer was not obligated to accommodate the claimant in another job during the license

suspension period when she was unable to legally perform the essential functions of her job. Benefits are denied.

DECISION:

The May 24, 2005, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

dml/sc