

**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**

**JUSTIN R HOOPER
PO BOX 615
OSKALOOSA IA 52577**

**OSKALOOSA MOTORS
PO BOX 1396
MITCHELL SD 57301-7396**

**Appeal Number: 06A-UI-05507-C
OC: 04/23/06 R: 03
Claimant: Respondent (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)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Oskaloosa Motors filed an appeal from a representative's decision dated May 16, 2006, reference 01, which held that no disqualification would be imposed regarding Justin Hooper's separation from employment. After due notice was issued, a hearing was held on June 13, 2006 in Ottumwa, Iowa. Mr. Hooper participated personally. The employer participated by Scott Hanson, General Manager; Jason Harland, Body Shop Manager; and Mark Werner, Service Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hooper was employed by Oskaloosa Motors from August 16, 2005 until April 25, 2006 as a full-time detail technician. On April 18, 2006, a meeting was held in which the detailers were told they had to check with the general manager before leaving for the day. The general manager wanted to make sure their services would no longer be needed for the day and that their work areas were clean. Mr. Hooper was discharged because he failed to check with the general manager before leaving on April 24 and left garbage in his work area. When questioned as to why he left without checking with the general manager, Mr. Hooper indicated he forgot.

In making the decision to discharge, the employer also considered Mr. Hooper's job performance. Approximately three weeks before the discharge, he was advised that his work was not up to the employer's standards. He had not received any written warnings.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Hooper was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The decision to discharge Mr. Hooper was prompted by the fact that he failed to clean his work area thoroughly and failed to check with the general manager before leaving on April 24, 2006. This was a relatively new procedure that had only been implemented the week before. At most, Mr. Hooper's actions constituted an isolated instance of negligence. Conduct so characterized is not considered misconduct within the meaning of the law. See 871 IAC 24.32(1).

Mr. Hooper was also discharged for poor work performance. The administrative law judge is satisfied that he was at all times working to the best of his abilities. He did not deliberately or intentionally fail to perform his job to the employer's standards. After considering all of the evidence, the administrative law judge concludes that the employer has failed to satisfy its burden of proving disqualifying misconduct. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated May 16, 2006, reference 01, is hereby affirmed. Mr. Hooper was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/pjs