

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

AARON N CLEVERINGA  
#3  
1412 N DAKOTA  
AMES IA 50014

MISTER MONEY FINANCIAL  
SERVICES INC  
MISTER MONEY USA  
2057 VERMONT DR  
FORT COLLINS CO 80525-2913

Appeal Number: 05A-UI-07837-HT  
OC: 06/26/05 R: 02  
Claimant: Respondent (2)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Mister Money, filed an appeal from a decision dated July 20, 2005, reference 01. The decision allowed benefits to the claimant, Aaron Cleveringa. After due notice was issued a hearing was held by telephone conference call on August 17, 2005. The claimant did not provide a telephone number where he could be contacted and did not participate. The employer participated by Assistant Manager Jeanna Garvey.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Aaron Cleveringa began employment with Mister

Money on March 15, 2005. He was a full-time clerk. Due to an error in a background check the claimant was discharged on April 26, 2005, but was rehired effective May 15, 2005, when the error was resolved.

On June 3, 2005, he received a warning for failing to properly put away some jewelry. He then requested, and was granted, vacation beginning June 22, 2005, and was to return to work on June 28, 2005. He was no-call/no-show to work that day and the employer called to ask where he was. He said he had not realized he was to return to work that day and would be in the next day. However, on June 29, 2005, he was also no-call/no-show to work and the employer listed him a discharge.

Mr. Cleveringa filed a claim for unemployment benefits with an effective date of June 26, 2005. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes he is.

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.

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).

The claimant was discharged when he failed to return to work at the end of his vacation, and again when the employer allowed him to extend his absence by one day. He did not participate in the hearing and therefore had not presented any explanation for his failure to return to work. The employer has the right to expect employees to appear for scheduled shifts or to notify it in a timely manner. The claimant's conduct is not in the best interests of the employer and he is disqualified.

DECISION:

The representative's decision of July 20, 2005, reference 01, is reversed. Aaron Cleveringa is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount provided he is otherwise eligible.

bgh/tjc