

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS N KING
Claimant

APPEAL NO. 10A-UI-09273-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SEQUEL YOUTH SERVICES
OF WOODWARD**
Employer

OC: 05/23/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Chris King filed an appeal from a representative's decision dated June 25, 2010, reference 01, which denied benefits based on his separation from Sequel Youth Services of Woodward (Sequel). After due notice was issued, a hearing was held by telephone on August 16, 2010. Mr. King participated personally. The employer participated by Scott Clouser, Program Director, and Shawn Hollenkamp, Group Living Director.

ISSUE:

At issue in this matter is whether Mr. King was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. King was employed by Sequel from September 22, 2008 until May 10, 2010 as a full-time youth counselor. He was discharged for failing to report an accident as required by the employer's policy.

At approximately 5:45 p.m. on May 7, 2010, Mr. King was transporting a group of five students back to the campus in the company van when he rear-ended a vehicle stopped at a stop sign. He spoke with the other driver and there was no injury and no damage to her vehicle. He did note, however, that there was a dent in the company van. The police were not called to the scene. Nor did Mr. King call the employer to report that he had been involved in an accident. He then proceeded to the campus, which was approximately five minutes away. Upon his arrival, he did not notify a supervisor or anyone in management that there had been an accident with the company vehicle. The employer did not learn of the accident until approximately 9:30 p.m. that night when law enforcement came to complete an accident report.

Each of the employer's vehicles is assigned a binder that contains the vehicle registration and other documents that may become necessary. There is also a page where the driver is to report whether the vehicle sustained any damage while he or she had it. Mr. King completed the form on May 7 but did not note the damage that occurred during the accident. He turned in the keys and resumed his normal duties. When questioned later, he indicated he did not call

the police or the employer at the time of the accident because he did not think it was a “big deal.” He indicated he did not report it upon his return to campus because he got busy and forgot. As a result of his failure to report the accident, Mr. King was discharged on May 10, 2010.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. King was discharged for failing to report an accident. He had two opportunities to report it to the employer, from the scene of the accident and once he returned to campus. Given the relatively minor nature of the accident, it was not unreasonable for Mr. King to forgo calling the employer from the scene of the accident. There were no injuries and the minor damage to the employer’s vehicle did not prevent it from being driven.

Mr. King contended that he intended to report the accident when he returned to campus but got busy and forgot. The administrative law judge did not find this contention credible. He had the opportunity to note the damage in the binder assigned to the vehicle. He was back on campus within five minutes of when the accident occurred. The administrative law judge is not inclined to believe he had forgotten about it. The fact that he made no notation of the accident in the binder suggests that he had no intention of reporting it to the employer. His failure to disclose the accident in the binder, which specifically asks whether any damage was sustained, constituted dishonesty.

If Mr. King had reported the accident to the employer prior to the arrival of law enforcement, the administrative law judge might be inclined to view the entire episode as a good-faith error in judgment or discretion. However, that was not the case. The employer first learned of the accident from law enforcement and not Mr. King. If accidents and resulting damages are not reported, the employer cannot take steps to make repairs. It also hampers the employer’s ability to determine the responsible party and take appropriate action. The administrative law judge concludes that Mr. King’s failure to report the accident and damage constituted a substantial disregard of the employer’s standards and interests. Accordingly, benefits are denied.

DECISION:

The representative’s decision dated June 25, 2010, reference 01, is hereby affirmed. Mr. King was discharged by Sequel for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css