

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE L HEITMAN
Claimant

APPEAL NO. 11A-UI-07645-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
& CASINO**
Employer

OC: 05/08/11
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

George Heitman filed an appeal from a representative's decision dated June 6, 2011, reference 01, which denied benefits based on his separation from Prairie Meadows Racetrack & Casino. After due notice was issued, a hearing was held on July 7, 2011 in Des Moines, Iowa. Mr. Heitman participated personally. The employer participated by Michelle Wilkie, Employee Relations Manager.

ISSUE:

At issue in this matter is whether Mr. Heitman 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. Heitman was employed by Prairie Meadows from March 19, 2007 until May 12, 2011. He worked full time as a line cook. On the evening of May 6, 2011, he notified his supervisor that he had injured his hip when pulling an 80-pound carton of meat from the cooler at work. On May 7, he was directed to see an EMT that worked for the employer. Mr. Heitman was told he would need to undergo a breath alcohol and drug screening as a result of his work-related injury. He refused to do so. He knew that a refusal could result in his discharge as stated in the employer's drug and alcohol policy.

Mr. Heitman did not want to have the drug screen because he had taken Vicadin for his pain. The drug had been prescribed for him due to a prior injury. Prairie Meadows had been advised that he was taking Vicadin. His doctor was trying to wean him from the drug but Mr. Heitman still had three tablets left when he injured himself at work on May 6. He had undergone a pre-employment drug screening before beginning the employment. He knew from that experience that the medical review officer would ask for a listing of prescribed medications before the screening.

After refusing to undergo the screening on May 7, Mr. Heitman immediately left work. He called in sick on May 8 and 9. He was scheduled off on May 10. He was asked to come in on May 11 to explain why he refused the drug screening. Because of his refusal, he was discharged on May 12, 2011. The above matter was the sole reason for the discharge.

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. Heitman was discharged after he refused to undergo a drug screen after an injury at work. The screening was requested because he had reported a work-related injury. Therefore, the testing was authorized by Iowa Code section 730.5(8)f.

The evidence of record does not establish any justification for Mr. Heitman's refusal to undergo the screening. He knew he could be discharged because of the refusal. The belief that he would have failed the test in some respect did not constitute good cause for the refusal. The employer had a vested interest in maintaining a drug-free workplace. An employer cannot ensure such a work environment if employees fail to undergo testing aimed at identifying those individuals who may be at work under the influence of alcohol or other drugs. For the reasons stated herein, it is concluded that disqualifying misconduct has been established. As such, benefits are denied.

DECISION:

The representative's decision dated June 6, 2011, reference 01, is hereby affirmed. Mr. Heitman was discharged by Prairie Meadows 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