

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLOS M BLOUNT
Claimant

APPEAL NO. 08A-UI-11259-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

JOHN DEERE DES MOINES WORKS
Employer

OC: 11/09/08 R: 02
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Carlos Blount filed an appeal from a representative's decision dated November 26, 2008, reference 01, which denied benefits based on his separation from John Deere Des Moines Works (Deere). After due notice was issued, a hearing was held on December 29, 2008 in Des Moines, Iowa. Mr. Blount participated personally and was represented by Nathaniel Boulton, Attorney at Law. Exhibit A was admitted on Mr. Blount's behalf. The employer did not appear for the hearing.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Blount was employed by Deere from October of 2004 until October 20, 2008. He was last employed full time as a production supervisor. He was told he was being discharged for giving false information regarding meetings with the vice president for human resources and for submitting a false expense report. He was not given specific details concerning the allegations regarding meetings with the vice president.

Mr. Blount used a company credit card to rent a car to drive to Iowa City, Iowa, for a work-sponsored golf outing on July 19, 2008. He submitted the expense report containing the charge on August 12 and his supervisor approved it. The employer believed Mr. Blount rented the car for personal use at company expense. As a result, he was discharged on October 20, 2008.

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). The employer's burden included establishing that the discharge was predicated on a current act of misconduct. 871 IAC 24.32(8). Mr. Blount was discharged for submitting an expense report that Deere believed was falsified. The administrative law judge need not determine whether the report was, in fact, false. The report was submitted on August 12 but he was not discharged until October 20, over two months later. Therefore, even if the report did contain false information, the employer did not act on it in a timely manner.

The employer did not participate in the hearing to explain why there was a two-month delay in discharging Mr. Blount. The employer did not participate to provide evidence of a more current act in relation to the discharge date. The employer's delay in discharging Mr. Blount precludes considering the allegedly false expense report as a current act of misconduct. As such, it must be concluded that the employer has failed to satisfy its burden of proof. 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).

DECISION:

The representative's decision dated November 26, 2008, reference 01, is hereby reversed. Mr. Blount was discharged by Deere but a current act of misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/