

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEITH W MOELLER
Claimant

APPEAL NO. 11A-UI-10775-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

ENTERPRISE RENT-A-CAR COMPANY
Employer

OC: 07/10/11
Claimant: Appellant (1)

Section 96.5-2-a - Discharge
871 IAC 24.32(1) – Definition of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 4, 2011, reference 01, that held he was discharged for misconduct on July 14, 2011, and which denied benefits. A hearing was held in Des Moines, Iowa, on September 14, 2011. The claimant participated. Ryan Peyton, area manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began employment on October 26, 2005, and last worked for the employer as a full-time branch manager on July 14, 2011. The claimant was supervised by his area manager beginning May 1, 2010. The area manager was the overseer of eight branch locations.

On May 16, 2011, Peyton issued claimant a written performance/probationary plan for failing to follow company procedures. The plan lists a history of employer-claimant discipline from a verbal warning on May 21, 2010 to a written warning on April 29, 2011. Claimant signed for the 90-day probation discipline without comment. Claimant was instructed to submit monthly agendas for June and July prior to the beginning of each month with the exception for additional time for June. Failure to follow the action plan would lead to employment termination.

Claimant failed to timely submit a July agenda to his supervisor. The employer's July 6 audit noted claimant was deficient on four issues. He failed to follow proper procedure in hiring a service agent. Peyton discharged claimant for these issues in light of the May 16 performance probationary plan.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on July 14, 2011, for repeated failure to follow company procedures in light of prior discipline.

The claimant knew the employer-required procedures due to his disciplinary history with a final warning his job was in jeopardy. His repeated procedure violations constitute job-disqualifying misconduct.

DECISION:

The department decision dated August 4, 2011, reference 01, is affirmed. The claimant was discharged for misconduct on July 14, 2011. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw