

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW A ROBB
Claimant

APPEAL NO. 13A-UI-06951-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

OC: 04/28/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 3, 2013, (reference 02) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on July 15, 2013. Claimant participated. Employer participated through Robert Oysterman, Operations Manager.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a security officer beginning on October 10, 2012 through October 12, 2012 when he was discharged. When the claimant was hired he was told that he was required to have a valid driver's license as he would be required to drive a company owned vehicle. The claimant represented to the employer at the time of hire that he had a valid driver's license. When the employer completed the background check, they discovered that the claimant did not have a valid driver's license thus he was discharged. At the time of the hearing, the claimant still did not have a valid driver's license and admitted his driver's license was not valid at the time of his discharge.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Repeated traffic violations rendering a claimant uninsurable can constitute job misconduct even if the traffic citations were received on the claimant's own time and in his own vehicle. *Cook v. IDJS*, 299 N.W.2d 698 (Iowa 1980). The claimant lost his driver's license because of his own actions. Although insurability was not at issue in this case, a valid driver's license was a substantive requirement of the claimant's job duties as a security officer. The employer is not required to accommodate the claimant during the license suspension period when he was unable to legally perform the essential functions of his job and claimant was aware he was required to have a valid driver's license to perform the job duties. Benefits are denied.

DECISION:

The June 3, 0213 (reference 02) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css