

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DESHOND L ROBINSON
Claimant

APPEAL NO: 11O-UI-02388-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BE & K CONSTRUCTION COMPANY
Employer

OC: 07/18/10
Claimant: Appellant (1)

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Deshond Robinson (claimant) appealed an unemployment insurance decision dated August 11, 2010, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from BE & K Construction Company (employer) for work-related misconduct. Administrative Law Judge James Timberland conducted an initial hearing on this matter in appeal 10A-UI-11643-JT in which benefits were denied. The claimant appealed the decision to the Employment Appeal Board. The recording of the hearing could not be transcribed due to a bad recording and the Board remanded for a new hearing in an order dated February 25, 2011.

After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 23, 2011. The claimant participated personally with attorneys Robert Gallagher Sr. and Peter Gierut. Carpenters Carl Kostka, Jacito Martinez, LeRoy Williams, and John Hartsell were present on the claimant's behalf but did not participate. The employer participated through Josh Erickson, Civil and Labor Superintendent; Joe Giveans, Executive Site Manager; Scott Wheelington, Night Superintendent; and Megan Long, in-house legal counsel. Employer's Exhibits One through Seven were admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the employer discharged the claimant for work-related misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The Findings of Fact set forth in the decision in appeal number 10A-UI-11643-JT are adopted and incorporated herein as if set forth at length.

REASONING AND CONCLUSIONS OF LAW:

The Reasoning and Conclusions of Law of the administrative law judge in appeal number 10A-UI-11643-JT are adopted and incorporated herein as if set forth at length.

DECISION:

The unemployment insurance decision dated August 11, 2010, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css