

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRUMAINE C HATCHETT**

Claimant

**APPEAL NO. 12A-UI-14750-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WEST LIBERTY FOODS LLC**

Employer

**OC: 02/19/12**

**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the December 5, 2012 (reference 04) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on January 18, 2013. Claimant participated. Employer participated through Human Resources Specialist Alejandra Rojas and Human Resources Supervisor Monica Dyar. The administrative law judge took judicial notice of the administrative record.

**ISSUE:**

Was the claimant discharged for disqualifying job-related 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 boxer from March 2012 and was separated from employment on November 13, 2012. Claimant was convicted of a pre-employment drug-related misdemeanor on July 23, 2012. The following day he told his supervisor Donald Hansley about the conviction and asked Liza in human resources for a work release letter. She referred him to Dyar who provided him with the letter. He served 60 days on work release from August 10 through October 8, 2012. On November 13, 2012 Hansley notified Dyar of the nature of the conviction and claimant was discharged for allegedly having failed to notify the employer of a drug-related conviction within five days. The policy states, in pertinent part: "Any employee who has been convicted of, or had pled either "guilty" or "no contest" to a drug-related crime must notify WLF of the conviction or plea no later than five (5) days after it is entered."

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason.

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 employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy, but if it fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, employer incurs potential liability for unemployment insurance benefits related to that separation. The claimant notified his supervisor of the specific charges the day after the conviction and the policy does not specify which representative of WLF must be notified. He also notified Liza and Dyar of the conviction by asking for a work release letter. The policy does not specify that the employee must provide details of the conviction, just that WLF be notified of the conviction. Claimant met the terms of the policy. The employer has not met its burden of proof to establish job-related misconduct. Benefits are allowed.

**DECISION:**

The December 5, 2012 (reference 04) decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed. The benefits withheld shall be paid, provided he is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/tll