

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JASON A HAES
1209 ROSEWOOD DR
ALTOONA IA 50009**

**ACTION ELECTRICAL CONTRACTING INC
5847 NE 6TH ST
DES MOINES IA 50313**

**Appeal Number: 05A-UI-11922-CT
OC: 10/30/05 R: 02
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Action Electrical Contracting, Inc. (Action) filed an appeal from a representative's decision dated November 14, 2005, reference 01, which held that no disqualification would be imposed regarding Jason Haes' separation from employment. After due notice was issued, a hearing was held by telephone on December 12, 2005. Mr. Haes participated personally. The employer participated by Randy Mease, President. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Haes was employed by Action from October 6 until October 31, 2005 as a full-time journeyman electrician. He was discharged due to poor work performance during the probationary period. His work did not meet the standards the employer expected of an electrician with journeyman status. Much of Mr. Haes' work had to be redone by others.

During his employment, Mr. Haes did the wiring incorrectly for recessed lighting, wired a doorbell incorrectly, and had difficulty installing outlets, among other problems. The final incident that caused the employer to discharge him occurred on October 27. The black and white wires he was working with on this occasion were not set out as expected. Therefore, the individual working with Mr. Haes told him to mark the wires to make sure he was using the correct ones. He did not mark the wires. Once he connected the wires, it was determined that he had used the incorrect wires, causing approximately \$2,000.00 in property damage to electronics in the home.

Mr. Haes attained journeyman status in February of 2004. He obtained his training at trade schools in Minnesota and Iowa. He has mainly performed commercial electrical work. He did not mislead Action concerning his credentials.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Haes was separated from employment for any disqualifying reason. 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). Mr. Haes was discharged due to unsatisfactory job performance during the probationary period. The administrative law judge does not believe he deliberately or intentionally failed to perform to the employer's standards. It appears that he simply did not have the skills necessary to perform his job.

The employer believed that Mr. Haes had misrepresented himself because his skills fell short of what one would expect from a journeyman electrician. The employer failed to establish that Mr. Haes gave false information on his application for employment. The employer failed to establish that he did not, in fact, have journeyman status. The fact that one has credentials that imply a certain skill level does not always translate into competency in that field.

Where an individual is discharged because of inability to meet the employer's standards during a trial period of employment, it is not an issue of misconduct. See 871 IAC 24.32(5). 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). For the reasons stated herein, it is concluded that disqualifying misconduct has not been established and benefits are allowed.

DECISION:

The representative's decision dated November 14, 2005, reference 01, is hereby affirmed. Mr. Haes was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/pjs