

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRET SNYDER

Claimant

APPEAL NO: 08A-UI-01551-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

PIEDMONT HAWTHORNE AVIATION LLC

Employer

**OC: 01-13-08 R: 03
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the February 5, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on February 28, 2008. The claimant participated in the hearing. Kerry Trosper, General Manager; Jeremy Hill, Line Service Manager; Brenda Merrill, Human Resources Manager; and Beverly Lamb, Employer Representative, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time shift supervisor for Piedmont Hawthorne Aviation from November 15, 2005 to January 13, 2008. On January 2, 2008, the claimant asked Line Service Manager Jeremy Hill to sign an application so he could get a restricted driver's license because he received an OWI July 9, 2007, and lost his license at the end of August 2007. He had not notified the employer of the situation when he lost his license and consequently was not insured by the employer's insurance company to drive company vehicles, fuel trucks or motor tugs. After the claimant asked Mr. Hill to sign the application the employer prohibited him from driving any of its vehicles. The employer's handbook states that an unacceptable driving record includes a conviction for OWI and/or refusal to take the test. The claimant testified he lost his license at the end of August 2007 but because he drove on private property for work he did not consider the liability issue until he asked the employer to sign his application for a restricted license. The employer terminated his employment January 13, 2008, after speaking to human resources for failure to have a driver's license when required to drive company vehicles.

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 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 claimant received an OWI in July 2007 and lost his driver's license at the end of August 2007. He did not report the situation to the employer even though his position required him to drive company vehicles. While the claimant drove on private company property he still had a responsibility to notify the employer of the status of his license because of the liability issue. Although the claimant was not thinking about the liability issue, that does not excuse him from reporting the loss of his license to the employer. Consequently, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits must be denied.

DECISION:

The February 5, 2008, reference 01, 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.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs