

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL L RITCHIE
Claimant

APPEAL NO. 07A-UI-08944-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAPITAL SANITARY SUPPLY CO INC
Employer

OC: 08-09-07 R: 02
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 17, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on October 3, 2007. The claimant did participate. The employer did participate through Michael Combs, Warehouse Manger, and Tracy Palar, Controller.

ISSUE:

Was the claimant discharged for work-related misconduct?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a driver, full-time, beginning January 1, 2006, through August 18, 2007, when he was discharged.

The claimant worked as a driver, which required he have a valid driver's license. The claimant was required to maintain a valid driver's license in order to keep his job. The claimant's license was suspended because of non-payment of a seat belt ticket. The claimant has since had his driver's license reinstated.

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.

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. It was the claimant's responsibility to maintain a valid license, and without it he was unable to perform the essential functions of his job. The employer was not obligated to accommodate the claimant while he worked to reinstate his driver's license by placing him in the warehouse. Benefits are denied.

DECISION:

The September 17, 2007, 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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw