

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFF P SANTEE
Claimant

APPEAL NO. 09A-UI-00275-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

STERIS CORPORATION
Employer

**OC: 12/07/08 R: 03
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Jeff Santee, filed an appeal from a decision dated January 6, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 22, 2009. The claimant participated on his own behalf. The employer, Steris, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Jeff Santee was employed by Steris from June 1987 until December 8, 2008 as a full-time field technician. His job duties require him to travel and he uses a company vehicle, and he must have a valid driver's license, though not a CDL. In early October 2008 he had a "side swipe" accident in one of the company vehicles which he immediately reported to his supervisor, Greg Baldwin. Nothing further was said about the accident.

On December 8, 2008, Mr. Baldwin called the claimant and said he was discharged for having "too many points" on his driver's license.

REASONING AND CONCLUSIONS OF LAW:

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.

In order to be disqualified from receiving unemployment benefits, a claimant must be discharged for a current, final act of misconduct. 871 IAC 24.32(8). In the present case the claimant was discharged two months after an accident. The employer did not participate to explain the reason for the delay and has failed to meet its burden of proof to establish the claimant was discharged for substantial, job-related misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982).

DECISION:

The representative's decision of January 6, 2009, reference 01, is reversed. Jeff Santee is qualified for benefits, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css