

BOARD OF REVIEW
OKLAHOMA EMPLOYMENT SECURITY COMMISSION
P.O. BOX 53345
OKLAHOMA CITY, OK 73152

Docket No. **18-AT-10043-BR**

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **OCTOBER 23, 2018**

OPINION

The BOARD OF REVIEW considered the decision of the Appeal Tribunal Hearing Officer, _____, affirming the Commission's determination by finding the claimant was discharged from his last employment but not for misconduct connected with the work and allowing benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended.

This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

In the employer's appeal to the Board of Review, he stated that the claimant was discharged for failing to call in for five days while he was in jail. While that certainly could be considered misconduct, the employer testified at the hearing that the claimant was discharged because he was arrested on felony charges. The Board of Review must base its consideration of this case on the sworn testimony given at the hearing. Since the arrest was not connected to the employment, and the claimant has not been convicted, the Board must agree with the Appeal Tribunal and finds that arrest without conviction does not amount to misconduct connected to the work.

The Board of Review concludes that the findings of fact and the conclusion(s) previously adopted by the Appeal Tribunal are applicable and that same should be adopted by the Board of Review as asserted.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby AFFIRMED.