

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

Docket No. **18-AT-08514-BR**

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **AUGUST 30, 2018**

OPINION

The BOARD OF REVIEW considered the decision of the Appeal Tribunal Hearing Officer, _____, reversing 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.

The claimant was discharged after being charged with driving under the influence (DUI), a charge that resulted in the revocation of his driver's license. The employer based its decision to discharge the claimant on its employment policy (the Support Collective Bargaining Agreement, Article VI, Section 4, Part B, #14) which states that suspension or dismissal may occur if an employee receives "A DUI conviction which leads to a felony conviction OR revocation of a driver's license OR other vehicular convictions which lead to revocation, suspension, non-renewal or uninsurability for any employee who drives a District-owned vehicle." (See Employer Exhibit 3.)

On April 9, 2018, the claimant was granted a modification of his revocation which allowed him to operate a vehicle owned by his employer, subject to the employer's approval. Nonetheless, the claimant's driver's license was still revoked. (See Employer Exhibit 1, Final Order dated April 9, 2018, which states, "The Court finds the revocation should be sustained.") Therefore, the claimant was in violation of the employer's written policy and was terminated for such. Misconduct has been shown as the reason for the termination.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is denied benefits effective week ending June 30, 2018, and indefinitely until he becomes re-employed and earns wages equal to or in excess of ten times his weekly benefit amount.