

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

Docket No. 15-AT-11425-BR

In Re: Claim of:

CLAIMANT

APPELLANT

SSA #

Date of Appeal to Board. **SEPTEMBER 3, 2015**

OPINION

The BOARD OF REVIEW considered the findings and 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's job required him to obtain CLEET certification within six months of his hire date. When the claimant did not get the certification within that time frame, the employer granted an extension. After two years had gone by, the claimant had completed portions of the process, but never got the certification. The employer finally discharged the claimant for his failure to meet his job requirements.

Section 2-406(B)(8) provides that a violation of a policy or rule enacted to ensure orderly and proper job performance or for the safety of self or others may be considered as misconduct. Section 2-406(C) provides that any misconduct defined in subsection B shall not require a prior warning from the employer. As long as the employee knew or should have known that a rule or policy of the employer was violated, the employee shall not be eligible for benefits.

The claimant knew that he was required to obtain CLEET certification within six months of hire. He did not do so. The fact that the employer "cut him some slack" and extended the time for the claimant to get certified did not remove the requirement from the terms of his employment. The evidence shows the claimant was discharged due to misconduct connected to the work.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is disallowed benefits effective week ending July 11, 2015, and indefinitely until he becomes re-employed and earns wages equal to or in excess of ten times his weekly benefit amount.

DOCKET NO. 15-AT-11425-BR

COPIES TO: CLAIMANT
EMPLOYER

APPEAL RIGHTS

Within 30 days after the mailing date of this decision, as shown opposite, further written appeal for judicial review may be filed in the District Court of claimant's county of residence or in the District Court of Oklahoma County if claimant is not a resident of Oklahoma, in accordance with Section 2-610, Title 40, Ok. Stat.

CERTIFICATE OF MAILING

I certify on 11-19-15 I personally placed copies of this decision in the United States mail in envelopes addressed to the claimant and employer at their respective addresses shown on the decision. Said envelopes were sealed and bore indicia of proper postage paid.