

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

Docket No. 16-AT-03082-BR

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **JANUARY 28, 2016**

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 was a deputy sheriff. He signed a Code of Conduct which provided in part that, "I am expected to follow all laws, both on and off duty, and conduct myself in such a manner as to avoid charges/convictions . . ." and "I understand that I am expected to refrain from any behavior, which could reflect negatively on MCDC [Muskogee County Detention Center]." Further, it stated, "I understand . . . I am subject to call when needed." (Employer Exhibit 1.)

The claimant was discharged due to a criminal arrest for DUI (driving under the influence). The claimant admitted he was driving under the influence of alcohol, although at the time of the hearing he had not yet had his court date or been convicted. The Hearing Officer found that merely being arrested for DUI does not reflect negatively on the Sheriff's office. The Board believes that it does. Additionally, the claimant was in no condition to be called to duty if needed. The Board finds that the claimant did violate the Code of Conduct and his discharge was 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 denied benefits effective week ending December 12, 2015, and indefinitely until he becomes re-employed and earns wages equal to or in excess of ten times his weekly benefit amount.