

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TYLER JOLLERICH**  
Claimant

**APPEAL NO: 12A-UI-07414-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 05/20/12**  
**Claimant: Appellant (5)**

Iowa Code § 96.5(2)a – Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's June 11, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. Sabrina Bentler, a representative with Corporate Cost Control, Inc., appeared on the employer's behalf. Jessie James, a human resource manager, appeared on the employer's behalf. During the hearing, Employer's Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for reasons that constitute work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2010. He worked as a part-time night stocker/clerk. When the claimant began working, he received a copy of the employee handbook. (Employer Exhibit Two.) The handbook informs employee they must personally contact the store director or supervisor when they are unable to work as scheduled. A person calling on an employee's behalf is not considered valid notification that an employee is unable to work as scheduled. (Employer Exhibit One.)

Prior to May 11, the claimant had some attendance issues. The employer talked to him about his earlier absences, but did not give him any written warnings. The claimant's earlier absences occurred on:

January 28, 2012	no-call, no-show
March 19	sick or family emergency
March 30	sick
April 15	transportation issues
April 21	left work early – sick

The claimant did not call or report to work on May 11, 12, or 13. His mother called the employer on May 13 to report the claimant was ill and unable to work. On May 14, the claimant called and told his supervisor he had been too sick to call earlier. The claimant then learned the employer had already ended his employment.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. The facts establish the claimant did not voluntarily quit his employment. Instead, the employer discharged him.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Before May 11, the employer talked to the claimant about his attendance. The claimant knew or should have known that only he could call in to report an absence. Without the claimant at the hearing to explain why he had not personally contacted the employer for two days and then had his mother call the third day, the evidence indicates the claimant intentionally and substantially disregarded the employer's interests. The employer discharged the claimant for reasons amounting to work-connected misconduct. As of May 20, 2012, the claimant is disqualified from receiving benefits.

**DECISION:**

The representative's June 11, 2012 determination (reference 01) is modified, but the modification has no legal consequence. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 20, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw