

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN L RIES
Claimant

APPEAL NO: 13A-UI-01640-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINNACLE HEALTH FACILITIES XVII
Employer

OC: 01/13/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 7, 2013 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 participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit a part-time job without good cause or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer hired the claimant to work as a part-time dishwasher. Before the employer allows any new hire to start a job, the newly hired person must pass several tests. On December 5 and 6, the claimant went to orientation and attempted to pass the tests the employer required. The claimant has problems taking tests. He asked if he could take something home to study for the tests so he could pass them. There was nothing he could take home to study for the tests. After trying to pass tests for several hours on December 6, the claimant still had two to four tests to pass. He expressed frustration about his inability to take tests. Employees told the claimant that until he passed all the required tests, he could not work as a dishwasher.

On December 6, the employer asked the claimant to sign a form stating he could not work for the employer because he could not pass all the mandatory tests. Since the claimant was unable to pass all the required tests, he never worked as a dishwasher for the employer.

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 him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence

does not establish that the claimant quit. Instead, the employer ended his employment because he was unable to satisfactorily complete all the employer's required tests. The employer initiated the employment separation.

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).

The claimant's inability to satisfactorily pass the employer's mandatory tests does not amount to work-connected misconduct. Therefore, as of December 2, 2012, the claimant is qualified to receive benefits.

(Note – if the claimant had quit, he quit a part-time job and would be eligible to receive benefits under 871 IAC 24.27.)

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's February 7, 2013 determination (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead, on December 6, 2012, the employer ended the employment relationship for nondisqualifying reasons. As of December 2, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll