

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BLAKE A JONES

Claimant

APPEAL NO. 12A-UCX-00020-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PANAMA TRANSFER INC

Employer

OC: 10/16/11

Claimant: Appellant (1)

Section 96.5(1) – Quit
Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Blake Jones, filed an appeal from a decision dated June 6, 2012, reference 03. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on June 27, 2012. The claimant participated on his own behalf. The employer, Panama Transfer, participated by President Dean Kloewer.

ISSUE:

The issue is whether the claimant quit work with good cause attributable to the employer or was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Blake Jones was employed by Panama Transfer from December 19, 2011 until May 14, 2012 as a full-time route driver. On May 1, 2012, he gave his resignation to his supervisor indicating his last day of work would be June 8, 2012 because he had taken another job.

On May 13, 2012, the claimant and his spouse rode with friends to Marshalltown, Iowa, to spend the day. The friends were to have picked them around 6:00 p.m. but did not appear. Mr. Jones sent a text message to his brother around 7:00 p.m. to find out if he could give them a ride back home, but got no response. It was not until 4:00 p.m. on Monday, May 14, 2012, the claimant was finally able to get a ride home. As soon as he did he called Terminal Manager Mark Fodt about the fact he had been no-call/no-show to work that day. Mr. Jones maintained he did not have his usual cell phone with him and did not have the number for the employer so that he could call sooner, and elected not to call information to get the number for Panama Transfer because “it cost money.”

Mr. Fodt told Mr. Jones that since he would be leaving in a few weeks and had been no-call/no-show to work that day, he was being released early. The claimant filed an additional claim for benefits with an effective date of May 13, 2012, but has not received any benefits since that day. He had started a new job effective June 25, 2012.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant did quit effective June 8, 2012, but was released early by the employer. He would not be eligible for benefits as of that date in any event because he quit without good cause attributable to the employer. The issue is whether he would be qualified for benefits from May 14 until June 8, 2012, because he was dismissed early by the employer.

Panama Transfer did not release the claimant early because he had resigned, he was released because he had been no-call/no-show to work without a single effort being made on his part to contact the employer. Mr. Jones made the decision to make no attempt to contact the employer because calling information was costly, and he chose to lose his job rather than pay the cost of a phone call. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The representative's decision of June 6, 2012, reference 03, is affirmed. Blake Jones is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css