

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RYAN T LONG
Claimant

APPEAL NO: 12A-UI-02473-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HAWKEYE AREA COMMUNITY
ACTION PROGRAM INC**
Employer

OC: 01/29/12
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge
Iowa Code § 96.4(3) – Able to and Available for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 9, 2012 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Bret Anderson, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUES:

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

After the claimant injured his leg, when was he able to and available for work?

FINDINGS OF FACT:

The claimant started working as a full-time warehouse assistant in late August 2011. As a result of an off-duty work injury, the claimant required some medical treatment.

On February 2, the claimant went to his doctor and received an injection. The claimant's doctor put him on work restrictions so the medication would effectively work. The work restrictions included not lifting more than 20 pounds and not pulling more than 50 pounds until February 28, 2012, or possibly sooner. The claimant contacted his supervisor, who believed the claimant could work with the restrictions if the employment made some accommodations.

After the employer's human resource department reviewed the work restrictions, the employer decided to end the claimant's employment because he was temporarily unable to perform the job he had been hired to do and the claimant had not worked long enough to be eligible for a leave of absence. The employer informed the claimant he was discharged as of February 2, 2012.

The claimant was able to work without any work restrictions as of February 14, 2012.

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 facts do not establish the claimant quit or even intended to quit. When the claimant informed his supervisor about his work restrictions, the claimant intended to continue working with some temporary accommodations. The claimant's employment ended because the employer would not accommodate his temporary work restrictions and discharged him.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had business reasons for discharging the claimant. Even though the claimant was not eligible for a medical leave of absence, he did not commit work-connected misconduct when he could not perform the job he was hired to do for a few weeks without some accommodations. Based on the reasons for his discharge, the claimant is qualified to receive benefits.

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). The claimant established that he is able to and available for work as of February 12, 2012.

DECISION:

The representative's March 9, 2012 determination (reference 01) is reversed. The claimant did not quit his employment. Instead, the employer discharged him for business reasons, but the claimant did not commit work-connected misconduct. Based on the reasons for his employment separation, the claimant is qualified to receive benefits. The claimant established that he was able to and available for work as of February 12, 2012. As of February 12, the claimant is qualified and eligible to receive benefits. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw