

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX HANNAM
Claimant

APPEAL NO: 13A-UI-09663-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROCK-TENN CONVERTING COMPANY
Employer

**OC: 07/28/13
Claimant: Appellant (5)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 16, 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 did not respond to the hearing notice or participate in the hearing. Kelly Shader, a human resource administrative assistant, Cory Costello, the general manager, and Anthony Zitto, the production team leader, appeared on the employer's behalf. 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 work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in June 2012. He worked as a full-time production line leader. Zitto supervised the claimant.

On July 2, the claimant requested intermittent FMLA as of July 1, 2013. The employer requires employees to contact the human resource department or their immediate supervisor when employees are unable to work as scheduled.

The claimant worked as scheduled on July 12. He was scheduled to work on July 17, 18 and 19. Zitto did not know the claimant would not be at work these days. The claimant did not call or report to anyone that he would not be at work these days. In accordance with the employer's policy – an employee is considered to have abandoned employment when they do not call or report to work for three consecutive days - the employer sent the claimant a letter on July 22 informing him that he no longer had a job. Prior to July 17, the claimant's job was not in jeopardy.

On July 25, the claimant called and talked to Shader to find out about the status of his FMLA request. She did not know this status, but asked him if he had received the separation letter yet. The claimant had not. The employer denied the claimant's FMLA request on August 5, 2013.

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 that the claimant voluntarily quit his employment. Instead, the employer initiated the employment separation when they sent the claimant a July 22 letter informing him that he no was no longer considered an employee.

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 evidence does not establish why the claimant did not call the employer on July 17, 18 or 19 to report that he was unable to work these days. Even though the claimant requested intermittent FMLA as of July 1, he did not know if this had been granted or denied. The employer had no idea the claimant would not be at work on July 17, 18 or 19. Based on the facts presented during the hearing, the claimant's failure to call the employer to report he was unable to work, amounts to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from an employee. The employer established the claimant was discharged for work-connected misconduct. As of July 28, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's August 16, 2013 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 July 28, 2013. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css