

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON L CRAVENS
Claimant

AGRI STAR MEAT & POULTRY LLC
Employer

APPEAL 16A-UI-09176-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/24/16
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 12, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on September 9, 2016. Claimant participated. Employer did not participate.

ISSUE:

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in approximately 2009. Claimant last worked as a full-time maintenance mechanic. Claimant was separated from employment on July 24, 2016, when he was terminated.

Employer has a policy requiring employees to obtain a doctor's note to excuse an absence for illness that lasts more than two consecutive work days. Claimant was aware of the policy.

Claimant was absent from work on July 21, 2016, due to illness. The absence was properly reported.

Claimant's next scheduled day of work was July 24, 2016. Sometime between July 21 and 24, 2016, employer announced employees were required to work an additional day on Saturday, July 23, 2016. No one contacted claimant to inform him of this information. Thus, claimant also missed work on July 23, 2016.

On July 24, 2016, claimant arrived at work for his regularly scheduled shift. Employer informed claimant he could not return to work until he presented a doctor's note excusing his absences

on July 21 and 23, 2016. Claimant stated he would not get a doctor's note excusing his absence for July 23 because he was not ill that day. Claimant also did not want to get a doctor's note for July 21 because he was not ill enough to see a doctor that day. Employer refused to let claimant return to work and discontinued his employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged for no disqualifying reason.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

In this case, employer terminated claimant for refusing to bring in a doctor's note excusing his absences on July 21 and 23. Claimant's refusal was reasonable given that he did not claim to be ill on July 23, 2016. Thus, any doctor's note claimant could have potentially brought in for that date excusing his absence would have been based on a falsification of facts.

If employer terminated claimant for excessive absenteeism, his last absences were not volitional. Claimant was not aware he was required to work on July 23 through no fault of his own. Claimant was ill and properly reported his absence on July 21, 2016. Because his last absence was related to properly reported illness or other reasonable grounds, no final or current incident of unexcused absenteeism occurred which establishes work-connected misconduct.

Since the employer has not established a current or final act of misconduct, without such, the history of other incidents need not be examined.

Employer has failed to establish claimant was terminated for misconduct and benefits are allowed.

DECISION:

The August 12, 2016, (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible. Benefits withheld based upon this separation shall be paid to claimant.

Christine A. Louis
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Decision Dated and Mailed

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