

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KODY W KLEIN**  
Claimant

**APPEAL NO. 11A-UI-00520-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE SERVICES INC**  
Employer

**OC: 12/05/10**  
**Claimant: Appellant (2)**

Iowa Code § 96.5-2(a) - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's January 10, 2011 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. The employer responded to the hearing notice but was not available for the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is 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:**

After the claimant registered to work for the employer's clients, the employer assigned him a job on October 19, 2010. The employer told the claimant on December 3 that this client ended the claimant's assignment because the claimant was not quick enough. The claimant asked the employer about another assignment and options were discussed.

The claimant established a claim for benefits during the week of December 5, 2010. He filed claims for three weeks before the employer assigned him to another job. As February 22, the claimant still works at the second assignment.

**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 has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to

obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5(1)j.

Since the claimant asked immediately about another job when the employer told him the client no longer wanted him on the assignment, Iowa Code § 96.5(1)j does not apply in this case. Instead, the client ended the claimant's job assignment because the client was not satisfied with the claimant's work performance—the claimant was not fast enough. For unemployment insurance purposes, the claimant was discharged from this job for reasons that do not constitute work-connected misconduct.

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). As of December 5, 2010, the claimant is qualified to receive benefits.

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 January 10, 2011 determination (reference 02) is reversed. The claimant did not quit his employment. Instead, he was released from a job assignment for reasons that do not constitute work-connected misconduct. As of December 5, 2010, 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw