

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY L FIFER
Claimant

APPEAL NO: 11A-UI-16602-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JACOBSON STAFFING COMPANY LC
Employer

OC: 11/13/11
Claimant: Respondent (4)

871 IAC 24.32(1)b – Requalifying Wages after a Disqualifying Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 22, 2011 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's October 31, 2011 employment separation was for nondisqualifying reasons. The claimant responded to the hearing notice, but he was not available when he was called for the hearing. A message was left for the claimant to contact the Appeals Section immediately. The claimant did not call the Appeals Section. Burt Schimbori, the operations manager, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the claimant has earned requalifying wages after his November 2010 employment separation and the employer's account will not be charged.

ISSUES:

Based on this employment separation, is the claimant qualified to receive benefits?

Is the employer's account subject to charge?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of November 13, 2011. The employer is one of the claimant's base period employers. The claimant's maximum weekly benefit amount is \$162.00.

The claimant worked for the employer on an assignment from August 2 through November 9, 2010. The employer discharged him.

The claimant established a claim for benefits in Illinois during the week of May 6, 2011. An appeal hearing concerning the reasons for the claimant's November 9, 2010 employment separation was held on June 1, 2011. Illinois decided on June 2, 2011, the claimant had been discharged for disqualifying reasons. (Employer Exhibit One.) There is no indication the Illinois decision was appealed.

The claimant worked for another employer, JBL Manufacturing, Inc., and earned more than \$1,620.00 in wages between August and October 31, 2011.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. 871 IAC 24.32(1)b.

The representative's December 22, 2011 determination that indicated the claimant's employment separation occurred on October 31, 2011, is wrong. The claimant's employment separation with this employer occurred on November 9, 2010. The Illinois decision issued on June 2, 2011, is considered a final decision in this matter. Therefore, the employer's account will not be charged.

Since the claimant earned requalifying wages before he established his claim for benefits, he is not disqualified from receiving benefits based on this employment separation.

DECISION:

The representative's December 22, 2011 determination (reference 03) is modified in the employer's favor. Based on this employment separation, the claimant is eligible to receive benefits as of November 13, 2011, because he earned requalifying wages after the employer discharged him in November 2010. The employer's account is not subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs