

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON F WRIGHT

Claimant

APPEAL NO: 11A-UI-15761-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ARONA CORPORATION

Employer

OC: 11/13/11

Claimant: Appellant (5)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 2, 2011 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 participated in the hearing. Brian Jones, the general manager, and Lisa Ziesman 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 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 reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2011. He worked full time as a product technician – delivering and setting up appliances. The claimant understood his job required him to work Saturdays, but the employer would try to give him one Saturday off a month.

After the claimant learned a friend bought him a ticket to go the Hawkeye's November 12 football game, the claimant left a post-it note for Jones asking if he could have that Saturday off from work. The claimant made his request in September or no later than mid-October. Jones kept telling the claimant that he would see what he could do about time off on November 12. When the employer posted the schedule for November, the claimant was scheduled to work on November 12. The employer does not have many people working and one employee was already on vacation. Another employee's wife was expecting their child about this time. The employer again told the claimant he would see what he could do.

When the claimant's grandmother became very ill and passed away, he was away from work November 2 through 9. The claimant worked on November 10 and 11. On November 11, the claimant tried to get extra work done so there would not be too much to do the next day. The employer told the claimant on Wednesday and Thursday that the employer could not grant his

time off request. The employer was already short staffed with two employees already off work on Saturday, November 12.

On Friday, November 11, the claimant called and again asked Jones if he could have time off the next day to go to the football game with friends. Jones again told the claimant he had to deny him permission to be absent the next day. The claimant then made the remark that he was going to the game even if he was not excused. The claimant assumed the employer would discipline him by giving him a written write up for failing to work as scheduled on Saturday. Jones then told the claimant he was discharged.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause 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 intended to quit. The employer discharged him.

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).

After the employer again told the claimant his time off request the next day, November 12 was denied, the claimant responded that he was not going to report to work and would take the consequences of his decision. The claimant's conduct amounts to insubordination. The claimant understood the employer was going to be short-handed on November 12 even if he did work. The claimant had compelling personal reasons for wanting the time off on November 12, but the employer did not grant his request when he posted the scheduled and continued to deny the claimant's time off request each time the claimant asked. The claimant's comment that he would to take off time even after the employer denied this request and would suffer the consequences, establishes an intentional and substantial disregard of the employer's behalf. The employer discharged the claimant for reasons constituting work-connected misconduct. As of November 13, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 2, 2011 determination (reference 01) is modified, but the modification has no legal consequence. The claimant did not voluntarily quit. Instead, the employer discharged him for reasons that amount to work-connected misconduct. The claimant

is disqualified from receiving unemployment insurance benefits as of November 13, 2011. 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