

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJAMIN A CARRILLO

Claimant

APPEAL NO: 12A-UI-00795-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP

Employer

OC: 12/11/11

Claimant: Respondent (5)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 11, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated at the hearing. Mike McElmeel and Wendy Larison 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 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 that constitute work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 2009. He worked as a full-time security officer at ADM until December 13, 2011.

On December 14, the claimant's supervisor, J.W., told the claimant he was no longer working at this ADM because someone reported the claimant had been smoking at the job site and because he was not wearing clothes that followed the employer's uniform policy. The claimant did not smoke at the job site. Even though the claimant initially understood he had been discharged, the employer only removed him from the ADM work site.

On or about December 18, the employer told the claimant he had not been discharged, but would no longer be working at ADM. The employer did not have another full-time job to assign to the claimant right away and offered him a job as a floater or an on-call, as-needed security officer. When the employer could not guarantee the claimant 40 hours a week or guarantee when he would be working 40 hours a week, the claimant declined the floater position.

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 evidence does not establish that the employer discharged the claimant. Even though the claimant would not sign or submit a written resignation when he refused to work as a floater or an on-call, as-needed employee, he quit. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The law presumes a claimant quit with good cause when he leaves because of a substantial change in his employment. 871 IAC 24.26(1). The change in the claimant's employment from working full time or 40 hours a week to an on-call, as-needed employee with no guarantee he would a 40 hours a week, constitutes a substantial change in the claimant's employment. The claimant quit for reasons that qualify him to receive benefits. As of December 11, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's January 11, 2012 determination (reference 01) is modified, but the modification has no legal consequence. The employer did not discharge the claimant. Instead, the claimant voluntarily quit for reasons that qualify him to receive benefits. As of December 11, 2011, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs