

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFERY NOLAN**  
Claimant

**APPEAL NO. 09A-UI-15146-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RIVERSIDE STAFFING SERVICES INC**  
Employer

**Original Claim: 04/12/09  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's September 28, 2009 decision (reference 01) that concluded the claimant was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. A hearing was held on November 10, 2009. The claimant participated in the hearing. Karrie Minch, a senior staffing associate, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**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:**

The claimant applied to work for the employer, a temporary staffing firm, on July 23, 2008. Most recently, the employer assigned the claimant to an indefinite job assignment at LSI on June 16, 2009. The claimant does not remember the employer talking to him about his attendance on August 13, 2009. The claimant had not been able to work on August 13 because of transportation problems. On August 27, 2009, the client called the employer at 7:30 a.m. because the claimant was not at work again. When the employer called the claimant, he was up but admitted he had overslept. Also, the claimant told the employer he would be at work but it would take 60 to 90 minutes to get to work because he had to get a flat tire fixed and he did not have a spare tire. The client told the employer to end the claimant's job assignment effective immediately because of on-going attendance issues. When the employer told the claimant he no longer worked at this assignment, the employer did not have another job to assign to him.

**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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

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).

The employer established business reasons for ending the claimant's assignment. The facts do not, however, establish that the claimant intentionally failed to work as scheduled. On August 27, the claimant overslept and then had an unexpected flat tire. Although the employer may have talked to the claimant on August 13 about making sure he worked as scheduled, the claimant had no understanding his job was in jeopardy because of attendance issues. When the employer called the claimant, he was in the process of trying to get a flat tire fixed so he could get to work. The claimant did not intentionally fail to work as scheduled. He did not commit work-connected misconduct. Therefore, as of August 23, 2009, the claimant is qualified to receive benefits.

**DECISION:**

The representative's September 28, 2009 decision (reference 01) is affirmed. The claimant's August 27, 2009 employment separation occurred for business reasons that do not constitute work-connected misconduct. Therefore, as of August 23, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's liability was determined when the claimant established his claim during the week of April 12, 2009.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw