

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACK HAARSHBARGER**  
Claimant

**APPEAL NO: 10A-UI-05788-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BLUE BEACON MANAGEMENT INC**  
Employer

**OC: 02/28/10**  
**Claimant: Appellant (2/R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed a representative's April 5, 2010 decision (reference 01) 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. A telephone hearing was held on May 24, 2010. The claimant participated in the hearing. Larry Wey, a representative with Employers Unity, appeared on the employer's behalf. Will Alitz, the manager, testified 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 started working for the employer on November 19, 2007. The claimant initially worked full time and then part time as a bay attendant. The employer knew the claimant had problems with his back and tried to adjust his work so he did not have to bend. The employer even scheduled the claimant part time or four hours a day so the claimant could continue working.

The employer removed the claimant from payroll on February 23, 2009, because he was unable to do the work as a result of continuing back problems and pain.

**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. Although the employer completed paperwork in February 2009 that stated the claimant voluntarily quit, the

employer testified the claimant's employment ended because he was unable to do the work. For unemployment insurance purposes, the employer discharged the claimant.

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 justifiable business reasons for ending the claimant's employment. The facts do not, however, establish that he committed work-connected misconduct. Therefore, as of February 28, 2010, the claimant is qualified to receive benefits based on the reasons for this employment separation.

While reviewing the administrative record, the record indicates the claimant initially established a claim during the week of March 1, 2009. The employer was the claimant's most recent employer and only employer during the claimant's benefit year. The employer did not protest the claimant's receipt of benefits during the first benefit year, but did the second benefit year. Since the claimant established a second benefit year, the administrative record does not appear to reflect that the claimant earned \$250.00 since March 1, 2009. Therefore, an issue of the whether the claimant is eligible to receive regular unemployment benefits as of February 28, 2010, will be remanded to the Claims Section to determine because before a claimant can establish a second benefit year, he must earn wages of at least \$250.00 since the first claim year or March 1, 2009.

**DECISION:**

The representative's April 5, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of February 23, 2009, the claimant is qualified to receive benefits based on this employment separation. An issue of whether the claimant is eligible to establish a second benefit year as of February 28, 2010, because he has or has not earned \$250.00 in wages since March 1, 2009, is Remanded to the Claims Section to determine.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css