

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DONALD E STIDD
Claimant

APPEAL NO: 12A-UI-09348-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**HASTINGS REGIONAL CENTER
BRIDGES PROGRAM**
Employer

**OC: 10/16/11
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 31, 2012 determination (reference 02) 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. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, 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 constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on February 6, 2012. The employer hired him to work as a full-time mental health security specialist on the night shift. Deb Johnson, the director, was the claimant's supervisor. She trained him.

During the week of June 18, Johnson talked to the claimant about a fire drill he had done incorrectly. When the claimant did the fire drill, he thought he had done it the way she wanted it done even though she had not trained him. The claimant asked Johnson for suggestions on how he could make corrections and do the fire drill correctly.

On June 27, the employer told the claimant to give her his keys and gave him a termination letter. The letter informed the claimant that as a probationary employee, the employer could discharge him for any reason. The claimant understood the employer discharged because he could not recover from doing the fire drill wrong. Johnson told the claimant that she would report he had quit.

During the week of July 1, 2012, the claimant reopened the claim he had established the week of October 16, 2011.

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 claimant quit his employment. Instead, the employer discharged him on June 27, 2012.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons. The evidence does not establish that he committed work-connected misconduct. Therefore, as of July 1, 2012, the claimant is qualified to receive benefits.

During the claimant's current benefit year, the employer's account will not be charged because the employer is not a base period employer.

DECISION:

The representative's July 31, 2012 determination (reference 02) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for reasons that do not constitute work-connected misconduct. As of July 1, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. Since the employer is not a base period employer during this claim year, the employer's account will not be charged during the current claim year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw