

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SCOTT L HANSAKER
Claimant

APPEAL NO: 09A-UI-17199-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLMAN DYNAMICS INC
Employer

OC: 10/18/09
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's November 6, 2009 decision (reference 01) that concluded he was not qualified to receive 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 December 21, 2009. 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 arguments of the claimant, 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 the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on April 16, 2006. The claimant worked as a full-time maintenance employee. The claimant's last day of work was October 8, 2009. After work on October 8 the claimant was arrested and sent to jail.

The claimant's wife notified the employer the claimant was unable to work because he was in jail. She asked and understood the employer granted the claimant a leave of absence. When the claimant was released from jail on October 18, 2009, he went to the employer. He then learned he no longer had a job with the employer. The claimant understood the employer had granted other employees a leave of absence when they had been incarcerated.

Prior to October 8, the claimant had two write ups for attendance issues. The claimant understood it took four write-ups for attendance issues before the employer discharged an employee for attendance issues.

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 sections 96.5-1, 2-a. The facts presented during the hearing do not establish that the claimant voluntarily quit his employment. After he was arrested, his wife contacted the employer and understood the employer would grant the claimant a leave of absence. Only after the claimant had been released from jail did he learn the employer ended his employment. The evidence does not establish why 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).

Since the employer did not participate in the hearing, the employer may have had justifiable business reasons for discharging the claimant. The evidence does not, however, establish that the claimant committed work-connected misconduct. Therefore, as of October 18, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

DECISION:

The representative's November 6, 2009 decision (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead the employer discharged him, but did not establish

that the claimant committed work-connected misconduct. As of October 18, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs