

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACK F LESTER

Claimant

APPEAL NO. 13A-UI-12294-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CHENHALL'S STAFFING SERVICE INC

Employer

OC: 09/29/13

Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 30, 2013, reference 01, that concluded the claimant completed his temporary work assignment and contacted the employer requesting a new assignment. A telephone hearing was held on November 25, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Amy Alger participated in the hearing on behalf of the employer.

ISSUES:

Was the claimant discharged for work-connected misconduct?

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. When the claimant was hired, he received a statement to read and sign that said he agreed to contact the employer after the completion of his work assignment for a further assignment, and if he did not do so, the employer would assume he was not available for work.

The claimant worked for the employer on assignments at Solar Plastics from April 2012 to December 12, 2012. On December 12, he was informed that he was being removed from the assignment for unsatisfactory work performance.

The claimant contacted the employer about further assignments on December 13, December 21, January 3, January 11, January 17, January 25, February 1, February 11, February 13. He was contacted in March 2013 about a job but declined the job because it only paid \$8.50 per hour. He did not have an unemployment claim in effect at that time.

The claimant filed a new claim for unemployment insurance benefits effective September 29, 2013, after a temporary layoff from Express Services Inc.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. The evidence establishes that the claimant was removed from his assignment for unsatisfactory performance not disqualifying misconduct as defined in 871 IAC 24.32(1).

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements. The claimant has satisfied these requirements. The fact that the claimant stopped contacting the employer in February or March or declined a job in March 2013 does not disqualify him from receiving benefits on a claim filed effective September 29, 2013. (See 872 IAC 24.24(8); “Both the offer of work or the order to apply for work and the claimant’s accompanying refusal must occur within the individual’s benefit year, as defined in subrule 24.1(21), before the Iowa Code § 96.5(3) disqualification can be imposed).

DECISION:

The unemployment insurance decision dated October 30, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs