

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY R SANCHEZ**  
Claimant

**APPEAL NO: 12A-UI-10836-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MANPOWER**  
Employer

**OC: 07/01/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's August 24, 2012 determination (reference 02) that held him eligible to receive benefits and the employer's account subject to charge because his employment separation was for non-disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Jessica Feliciano, a recruiter, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits or did the employer discharge him for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The employer is a temporary staffing agency. The claimant registered to work for the employer's clients in December 2011. The claimant started his most recent assignment on March 16, 2012. The last day the claimant worked at the assignment was March 19. He was scheduled to work on March 23 but did not report to work. He did not call the client or the employer to report he was unable to work as scheduled to work because he did not have his cell phone with him before his shift started. The client called the employer to report the claimant had not reported to work. The client wanted the employer to replace the claimant.

Later on March 23, the claimant called the employer to report he had not been able to work as scheduled because of car problems. The claimant called the employer on March 26 to report he was again available to work. The employer did not have another job to assign to the claimant on March 26.

## REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (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).

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).

Based on the client's request, the employer replaced the claimant at his most recent assignment after he missed one day of work. The claimant was absent on March 23 because his car broke down. The claimant was again available to work on March 26 and contacted the employer about returning to work. The claimant became unemployed on March 23 because he missed one day of work and the employer did not have another job to assign to him on March 26. For unemployment insurance purposes, the claimant was effectively discharged on March 23 for business reasons (the client made the request). Even though the claimant was absent on March 23, this incident does not rise to the level of work-connected misconduct.

The employer presented information about the claimant refusing subsequent offers of work after March 26. While it appears the claimant did not have an established claim in Iowa until July 1, 2012, he may have had a claim in Washington during this time. If the employer wants to pursue the refusal of offer of work issue, the employer should contact the Claims Section of Iowa Workforce or the State of Washington to find out if the claimant had an established benefit year in March or April 2012 and ask the liable state to investigate this issue.

**DECISION:**

The representative's August 24, 2012 determination (reference 02) is affirmed. For business reasons the employer ended the claimant's assignment on March 23, 2012. The claimant did not commit work-connected misconduct. Based on the reasons for this employment separation, the claimant is qualified to receive benefits as of July 1, 2012, provided he meets all other eligibility requirements. If the employer is a base period employer, the employer's account may be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw