

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAX P ELMORE
Claimant

APPEAL NO: 14A-UI-03394-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINEGARD COMPANY
Employer

OC: 03/09/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 26, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated at the April 14 hearing. Kerry Hale, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit the 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 again for the employer in 2002. He worked as a full-time forklift driver. On December 3, 2013, the claimant came to work about two hours before he was scheduled to work. He wanted to talk to Mary Jo about retiring. Before the claimant came to work he had been drinking. He told Mary Jo he was unable to work his shift that day because he had been drinking. The employer wanted the claimant to talk to the human resource director in case the claimant needed assistance to control his drinking alcohol. Instead of talking to the human resource director, the claimant left the work place.

The next day, the claimant tried his key card and could not get in. He came through the lobby door to pick up his paycheck. Mary Jo told the claimant that because of what had happened the day before, he needed to talk to the human resource director. The claimant did not call the human resource director. He asked Mary Jo if he was terminated. Mary Jo told him no, but again told him that he needed to call and talk to the human resource director to work out what would happen when he returned to work.

The claimant did not call the human resource director. He did not call or report to work on December 5, 6 or 9. Based on the employer's no-show, no-report written policy, on December 9, the employer concluded the claimant had voluntarily quit by abandoning his job and ended his employment.

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 claimant asserted that he tried to report to work on December 4 and 5, but his key card would not let him in. The claimant went through the lobby door on December 4 to pick up his paycheck. The claimant did not say anything to Mary Jo about his key card not working. The employer has no record of the claimant calling or reporting to work on December 5, 6 and 9. This case could go either way.

If the claimant quit, he quit by abandoning his employment. The claimant did not establish good cause for quitting and is disqualified from receiving benefits. When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

If the employer discharged him, the claimant committed work-connected misconduct by failing to call or report to work after December 4. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. Iowa Admin. Code r. 871-24.32(7). The claimant violated the employer's policy when he failed to call or report to work on December 5, 6 and 9. The employer discharged the claimant for reasons constituting work-connected misconduct. As of December 9, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's March 26, 2014 determination (reference 01) is affirmed. The claimant voluntarily quit his employment without good cause attributable to the employer. Even if the claimant did not quit, the employer then discharged him for reasons constituting work-connected misconduct. As of December 9, 2013, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs