

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DUOTH W KHOT**  
Claimant

**APPEAL NO. 10A-UI-11590-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COUNCIL BLUFFS PAYROLL COMPANY**  
Employer

**OC: 07/04/10**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated August 17, 2010, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 4, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a laborer from August 18, 2008, to February 21, 2010. He went on an authorized one-month vacation to Africa after February 21, 2010.

While he was on vacation, he contracted malaria and typhoid fever and was prohibited from traveling by his doctor. Because he was very sick and was in an area without phone service, he could not call the employer to inform them about his medical problems.

When he recovered and was released to travel at the end of June, he return to Iowa and reported to work, but he was informed that he had been terminated because he had not reported back to work after his vacation.

**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 section 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d

137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992). I conclude the claimant had no intention to quit his job, and was discharged.

The issue then is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

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).

No willful and substantial misconduct has been proven in this case. The claimant was sick and unable to work. He was unable to contact the employer when he was in Africa.

**DECISION:**

The unemployment insurance decision dated August 17, 2010, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs