

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IVORY B FOX
Claimant

APPEAL NO: 13A-UI-04744-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNIPARTS OLSEN INC
Employer

**OC: 03/31/13
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 19, 2013 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Stephanie Tuegel, 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 qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer as a CNC operator in June 2012. On March 18, 2013, the claimant received a verbal warning that he needed to increase his production. The claimant's job was not in jeopardy after he received this warning.

The claimant worked as scheduled on March 25. On March 26, 27, and 28, he notified the employer he was ill and unable to work. When the claimant reported to work on Monday, April 1, he was told he was discharged because of his low productivity the week before.

On Tuesday, April 2, the claimant's supervisor told Tuegel the claimant came to work to pick up his personal property because he had been told he was discharged. Tuegel had not authorized the claimant's discharge, but sent the claimant a letter on April 3 indicating the employer considered him to have abandoned his employment since he had not called or reported to work since March 25, 2013.

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.

During the hearing, the employer admitted the claimant notified the employer on March 26, 27 and 28 that he was ill and unable to work. Since the claimant reported to work the following week when he was again well and able to work, the facts do not establish that the claimant abandoned or quit his employment.

The employer discharged the claimant and verified he was discharged in an April 3 letter. 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).

Even though Tugel did not believe the claimant's supervisor told him he was discharged for low productivity, it is difficult to understand why the claimant's supervisor did not participate at the hearing. Since the employer admitted the claimant notified the employer on March 26, 27 and 28, it is also difficult to understand why the employer asserted he abandoned his employment in the April 3 termination letter.

Bottom line is that the employer may have had business reasons for discharging the claimant, but the claimant did not commit work-connected misconduct. As of March 31, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's April 19, 2013 determination (reference 02) is reversed. The claimant did not quit. Instead, the employer discharged him for business reasons, but the claimant did not commit work-connected misconduct. As of March 31, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs