

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM A LEASURE
Claimant

APPEAL NO: 12A-UI-08214-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING
Employer

**OC: 05/27/12
Claimant: Respondent (5)**

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 2, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged on January 5, 2012, for non-disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Colleen McGuinty, the unemployment insurance benefits administrator, and Julie White, an account manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge finds the claimant

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 registered to work for the employer's clients. His first assignment started on September 23, 2011. The employer assigned him another assignment on November 7, 2011. This assignment ended on April 30, 2012. The employer then assigned the claimant to a job on May 24. He worked at this job assignment until June 4. He did not report to this assignment after June 4. When the claimant did not report to work on June 5, the assignment ended. On June 8, the claimant called the employer to let the employer know he was again available to work. He had car problems and had not been able to get to the assignment after June 4. The employer assigned the claimant to another job on June 22.

The claimant established a claim for benefits during the week of May 27, 2012. As of the date of the hearing, August 6, 2012, he has not filed any weekly claims

REASONING AND CONCLUSIONS OF LAW:

The July 2, 2012 determination (reference 01) erroneously indicated January 5, 2012, as the date the claimant was discharged. The claimant worked at an assignment from November 2011 to April 30, 2012. The representative may have meant June instead of January. A job

assignment the claimant started on May 24 ended on June 5 when he did not report to that assignment.

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. Even though the claimant did not report to an assignment on June 5, the evidence does not establish that he quit. Instead, the employer ended this assignment when the claimant did not report to work one day, June 5. The claimant became unemployed as of June 5, 2012.

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).

The claimant did not report to the job assignment on June 5 because he was unable to get to work as a result of transportation issues. Since the claimant notified the employer on June 8 that his transportation issues had been resolved and the employer assigned him to another job on June 22, the facts do not establish that the employer discharged him on June 5 for reasons constituting work-connected misconduct.

The record indicates the claimant has not filed any weekly claims. If he reopens his claim, the employer will have the opportunity to present information why his then most recent employment ended.

DECISION:

The representative's July 2, 2012 determination (reference 01) is modified, but the modification has no legal consequence. The claimant was not discharged on January 5, 2012. At that time, he was still working at a job the employer assigned to him in November 2011. An assignment the claimant started on May 24 ended on June 5 when the claimant was unable to get to work because of transportation issues. When the claimant did not report to work one day, June 5, the employer ended this assignment. Since the claimant has not filed any weekly claims and he

continues to work for the employer, the employer did not discharge the claimant for reasons constituting work-connected misconduct. Even though the claimant's June 5 employment separation does not disqualify the claimant from receiving benefits, the claimant has not filed any weekly claims.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw