

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARL E SHIRTS

Claimant

APPEAL NO: 14A-UI-13389-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

OC: 02/23/14

Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 17, 2014 determination (reference 04) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant participated at the January 23, 2015 hearing. Sarah Fiedler, a human resource generalist, appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. 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 this employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of February 23, 2014. He registered to work for the employer, a temporary staffing firm, on March 5, 2014. On March 5 the claimant also received a copy of the employer's policy that requires employees to contact the employer within three working days of completing an assignment. The policy also states that if an employee does not contact the employer, the employer is considered him to have voluntarily quit which could affect the employee's unemployment insurance benefits. (Employer Exhibit One.)

The employer assigned the claimant to a long-term job on March 10, 2014. The last day the claimant worked at the assignment was November 10, 2014. The claimant was off work because his child was born. When he was scheduled to return to work, the claimant was unable to work because he was sick with the flu. On November 25, the employer left a voice message for the claimant stating he had been terminated from his assignment. The claimant was asked to return his badge. The claimant was at the hospital being treated for the flu on November 25. The claimant understood he had been discharged because he had pointed out or had too many absences.

The claimant went to the employer's office on December 3. He brought in his badge and told a representative he had been terminated. The claimant completed an exit interview that he believed was his termination paperwork. The claimant did not ask the employer for another job assignment based on his belief he had been terminated. The representative the claimant talked to did not talk about another assignment.

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. A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j.

On November 25, the claimant understood the employer's representative told him he was discharged. Since this representative did not testify at the hearing, the claimant's testimony must be given more weight than the employer's reliance on hearsay information. As a result of understanding he was discharged, the claimant did not request another job assignment. Since the claimant understood he had accumulated too many attendance points at his job assignment, his understanding that he was discharged was reasonable. Even when the claimant came to the office on December 3, after he got over the flu, the employer did not talk to him about another assignment. Instead, the representative asked the claimant to complete an exit interview. The evidence does not establish that the claimant completed an assignment. Instead, the client informed the employer the claimant no longer worked at this assignment. This amounts to a discharge and not a completion of a job assignment.

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. 871 IAC 24.32(7). Even though the claimant was unable to return to work as scheduled, he was ill and unable to work. The claimant's employment ended for nondisqualifying reasons. As of November 30, 2014, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers.

DECISION:

The representative's December 17, 2014 determination (reference 04) is reversed. The claimant's employment ended for nondisqualifying reasons. As of November 30, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs