

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAMONT A MITCHELL
Claimant

APPEAL NO: 14A-UI-05845-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GLOBAL SPECTRUM LP
Employer

OC: 05/11/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 4, 2014 determination (reference 03) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated at the June 30 hearing. Diane Frischmeyer, the director of finance, 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 work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in August 2013. He worked part time as a building attendant. The claimant understood that when he was unable to work as scheduled, he had to call a phone number with an answering machine and provide information as to why he could not work as scheduled. The claimant also understood an employee would be discharged if he accumulated 15 attendance points in a rolling six-month timeframe.

On October 16, 2013, and March 26, 2014, the claimant received written warnings because he had accumulated ten attendance points. Even after the claimant received the March 26, 2014 written warning, the employer told him that some of his points would soon roll off so his job was not in jeopardy.

The claimant notified the employer on April 7 that he was unable to work as scheduled. He received one point for this absence. The claimant had scheduled interviews for full-time jobs on April 11 and 12. The claimant understood that if he reported to work late either day, he would receive two attendance points, instead of one if called in and reported an absence.

On April 11, the claimant called the phone number the employer told employees to call to report absences. The claimant provided the requested information and believed he properly notified the employer that he would not be at work on April 11. The employer, however, noted the claimant had not called in or reported to work on April 11. The employer gave the claimant five attendance points for this absence. After his April 11 absence, the claimant had accumulated 12 attendance points.

The claimant also called and left a message on April 12 that he was unable to work. The claimant again provided the requested information and believed he had properly notified the employer that he would not be at work on April 12. The employer again did not receive notice that the claimant had called in to report his absence. The claimant received another five attendance points for his April 12 absence. This meant the claimant had accumulated 17 attendance points. The claimant did not report to work on April 11 and 12 because he had interviews for full-time employment.

The employer sent the claimant a certified letter on April 17 informing him he was no longer an employee because he had too many absences or had accumulated more than 15 attendance points.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

The employer established business reasons for discharging the claimant when he exceeded the number of attendance points the employer allows an employee in a rolling six-month time period. The claimant did not realize he would be assessed five points for his absences on April 11 and 12. The claimant understood he would only receive one attendance point each day. If the employer had only assessed the claimant one point each day, the employer would not have discharged him for accumulating too many attendance points.

This case revolves around the credibility of the evidence. The claimant asserted he properly report he would absent on April 11 and 12. The employer's witness received information that the claimant had not properly notified the employer he would not be at work. In this case, the claimant is credible and his testimony is given more weight than the employer's reliance on information from other individuals who did not testify at the hearing. This means the claimant did not commit work-connected misconduct. As of May 11, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements.

DECISION:

The representative's June 4, 2014 determination (reference 03) is reversed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of May 11, 2014, 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/css