

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL BECKERT
Claimant

APPEAL NO. 08A-UI-05008-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EAST WEST STAFFING
Employer

OC: 04/13/08 R: 04
Claimant: Respondent (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

East West Staffing filed an appeal from a representative's decision dated May 15, 2008, reference 03, which held that no disqualification would be imposed regarding Michael Beckert's separation from employment. After due notice was issued, a hearing was held by telephone on June 10, 2008. Mr. Beckert participated personally. The employer participated by Michelle Mutchler, On-Site Manager.

ISSUE:

At issue in this matter is whether Mr. Beckert was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Beckert began working through East West Staffing, a placement firm, on March 13, 2008. He was assigned to work full time for Scott's Company. On or about April 11, he was told he was going to be laid off on April 15. He told his supervisor he would not be at work on April 14 and April 15 because he would be attending a family function.

The employer considered Mr. Beckert to be a "no call/no show" for both April 14 and April 15. He also had an unreported absence on March 28. The employer's policy provides for discharge if an individual has three unreported absences during a 12-month period. Therefore, Mr. Beckert was considered discharged by the employer. When questioned by East West Staffing, Mr. Beckert indicated that his supervisor said he could be laid off early. The layoff was officially announced at approximately noon on April 15, 2008.

REASONING AND CONCLUSIONS OF LAW:

Mr. Beckert was hired for placement in temporary work assignments. An individual so employed must complete the last assignment in order to avoid the voluntary quit provisions of the law. See 871 IAC 24.26(19). The administrative law judge concludes that Mr. Beckert

completed his assignment with Scott's Company. Although he was not there for available work on April 14 and 15, he had a good-faith belief that his supervisor had given him permission to be gone for the final two days of work.

Even if administrative law judge were to conclude that Mr. Beckert did not complete his assignment, there would still be no basis for disqualification beyond April 15, 2008. Where an individual leaves employment in advance of a scheduled layoff, the disqualification period is from the last day worked until the date of the layoff. See 871 IAC 24.25(40). Therefore, at most Mr. Beckert would be disqualified from receiving benefits from April 11 until April 15, 2008.

The employer requested that the discharge provisions of the law also be considered in this matter. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Beckert's discharge was predicated on the belief that he had three unreported absences during a 12-month period in violation of the employer's standards. The three absences included April 14 and April 15. However, as previously stated herein, Mr. Beckert had a good faith belief that his absences of April 14 and 15 were authorized. As such, they could not form the basis of a misconduct disqualification.

DECISION:

The representative's decision dated May 15, 2008, reference 03, is hereby affirmed. Mr. Beckert was separated from East West Staffing for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs