

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY L KUGEL**  
Claimant

**APPEAL NO. 13A-UI-05693-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FEATHERLITE INC**  
Employer

**OC: 04/14/13**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Jeffrey Kugel, filed an appeal from a decision dated May 8, 2013, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 18, 2013. The claimant participated on his own behalf. The employer, Featherlite, did not provide a telephone number where a witness could be contacted and did not participate..

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Jeffrey Kugel was employed by Featherlite from February 13, 2012 until March 4, 2013 as a full-time welder. His last day of work was January 4, 2013, and then he went on an approved medical leave of absence for a non-work-related medical condition. He kept in contact with the human resources office with updates on his medical condition.

On March 4, 2013, the human resources representative, Denise told him he had missed too much work and needed to return the next day or he no longer had a job. His doctor had not yet released him without restrictions and his employment was ended.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The claimant did not voluntarily quit but was discharged. He was unable to return to work from his medical leave because his doctor had not released him. This is not misconduct as it was not volitional. Benefits are allowed.

**DECISION:**

The representative's decision of May 8, 2013, reference 02, is reversed. Jeffrey Kugel is qualified for benefits, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs