

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRIAN D FULLER
Claimant

APPEAL NO: 14A-UI-03133-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

PAPA MURPHY'S TAKE-N-BAKE PIZZA
Employer

OC: 02/02/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 14, 2014 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated at the April 29 hearing. The employer did not appear for the hearing. Based on the evidence, the claimant's arguments, 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 reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer again on October 1, 2013. The employer rehired him to work 30 or more hours a week as a crew person. Prior to January 27, 2014, the claimant had not received any warnings. The claimant had no knowledge his job was in jeopardy.

On January 27, 2014, the manager called the claimant and told him to bring in his uniform and keys to the store at noon because the owner wanted to talk to him. The claimant came to work around 11 a.m. He left his uniform and keys at the store. The owner was not present when the claimant came to the store. The owner did not call the claimant after he brought in his keys and uniform. The claimant did not return to work because he concluded the employer discharged him by asking him to return his uniform and keys.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if voluntarily quits employment without good cause or an employer discharges him for work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence does not establish that the claimant voluntarily quit his employment. Instead, the employer initiated the employment separation by telling the claimant to turn in his keys and uniform. Even though the employer did not say, "You

are terminated," it was reasonable for the claimant to conclude he was discharged after the employer told him to turn in his uniform and keys. This conclusion is supported by the fact the employer did not contact him after he left these items as instructed by the manager.

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 employer may have had business reasons for discharging the claimant. Since the employer did not participate at the hearing, the evidence does not establish why the employer discharged the claimant and asked him to return his uniform and keys. The facts do not establish that the claimant committed work-connected misconduct. As of February 2, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's March 14, 2014 determination (reference 02) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for reasons that do not constitute work-connected misconduct. As of February 2, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs