

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KENNETH B HARRIS
Claimant

APPEAL NO. 13A-UI-07164-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PACKERS SANITATION SERVICES INC
Employer

OC: 05/19/13
Claimant: Appellant (5)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 5, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on July 25, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Jason Vanderhoff participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a sanitation worker at the Tyson plant in Storm Lake, Iowa, from February 2013 to the end of April 2013. The claimant was informed and understood that under the employer's work rules, employees were required to notify a supervisor or manager if they were not able to work as scheduled and would be considered to have voluntarily abandoned their job after three days of absence without notifying the employer.

The claimant was off work for about a week early April due to a problem with pain in his wrist, which was due an injury sustained on another job. He was released to return to work in April without restrictions, but after a few days, he believed that the job he was assigned of handling a hose to clean was too strenuous. He told some in the office that he was going to take time off to see a doctor.

The claimant missed work several days afterward and failed to call in to notify a supervisor or manager that he would not be at work in violation of the employer's work rules. When the claimant eventually reported to the plant, he was told that he was terminated because he was absent from work without notifying a supervisor.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989); *Peck v. Employment Appeal Board*, 492 N.W.2d 438, 440 (Iowa App. 1992).

I do not believe the claimant intended to quit his job when he was absent from work. The separation should be treated as a discharge.

The claimant's violation of a known work rule regarding calling in daily to notify a supervisor regarding absences was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated June 5, 2013, reference 01, is modified with no change in the outcome. The claimant was discharged for work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css