

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT G ADAMS**  
Claimant

**APPEAL NO. 12A-UI-12366-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JACOBSON STAFFING**  
Employer

**OC: 09/16/12**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated October 8, 2012, reference 02, that held he voluntarily quit without good cause on September 10, 2012, and which denied benefits. A telephone hearing was held on November 15, 2012. The claimant participated. Rita Strosche, senior account representative, participated for the employer.

During the hearing instruction, claimant was admonished about interrupting and he responded with a request to have a different ALJ conduct the hearing. He opined that the ALJ was not professional. The request was denied.

**ISSUE:**

Whether claimant voluntarily quit with good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the witness testimony and having considered the evidence in the record, finds that: The claimant began a temp-to-hire work assignment at ESCP/work shop on September 10, 2012. He was placed into a one-week training period for welding-fabricator. When claimant had finished the work day, there was an incident with a supervisor.

An employer representative e-mailed the employer stating it did not want claimant to return. The claimant and employer representative in this matter discussed this matter the following day. The employer told claimant he was being let go from the assignment due to an episode. The employer had no further work to offer claimant at that time. Claimant did make him available on the employer's work list, and the employer considers him to be on the active list as of the date of this hearing.

**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.

The administrative law judge concludes the employer failed to establish misconduct when it removed him from a work assignment on September 11, 2012. The hearsay evidence that claimant yelled at a supervisor is not sufficient to establish misconduct.

The reason for claimant's separation from work is the employer's client's decision for him not to return. The three-day work availability rule does not apply; because claimant did not complete the assignment he was removed from it. In addition, the employer continues to keep the claimant on its work availability list through the date of this hearing.

**DECISION:**

The department decision dated October 8, 2012, reference 02, is reversed. The claimant was not discharged for misconduct on September 11, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw