

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUGLAS R SPEICHER
Claimant

APPEAL NO. 10A-UI-13579-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

IPC INC
Employer

OC: 02/07/10
Claimant: Appellant (5)

Section 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Douglas R. Speicher filed a timely appeal from an unemployment insurance decision dated September 24, 2010, reference 02, that disqualified him for benefits upon a finding that he had been discharged for misconduct by his employer, IPC, Inc. Mr. Speicher requested an in-person hearing. After due notice was issued, a hearing was held in Des Moines, Iowa on October 27, 2010 with Human Resources and Safety Manager Jackie Winters participating for the employer. Mr. Speicher did not respond when paged at the time of the hearing and again prior to the closing of the record. Employer Exhibits One and Two were admitted into evidence.

ISSUE:

Was the claimant's separation from employment a quit or a discharge?
Was the separation a disqualifying event?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Douglas R. Speicher was a laborer for IPC, Inc. from September 21, 2009 until August 4, 2010. Mr. Speicher entered substance abuse treatment. On July 12, 2010, Mr. Speicher told Human Resources and Safety Manager Jackie Winters that he was ready to come back to work. Ms. Winters told Mr. Speicher orally and in a letter that he would need to present a release to return to work and would then need to go through the employer's own screening process. Ms. Winters did not hear from Mr. Speicher again. She sent him a reminder letter on July 28, 2010 saying that the company needed to have the release within one week or the company would consider that he had abandoned his position. Once again, Ms. Winters heard nothing from Mr. Speicher.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the separation should be considered a quit or a discharge. Although the facts contain elements consistent with each type of separation, the greater weight

of evidence is that Mr. Speicher discontinued contact with the employer after July 12, 2010, neither providing documentation nor explaining why he could not do so. Such a separation is better characterized as a quit.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The claimant has the burden of proof. See Iowa Code section 96.6-2. The administrative law judge concludes from the evidence that the claimant quit due to job abandonment. Separation from employment under these circumstances is not for good cause attributable to the employer. Benefits are withheld.

DECISION:

The unemployment insurance decision dated September 24, 2010, reference 02, is modified. The separation was a quit, not a discharge. The unemployment insurance outcome remains the same. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs