

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES R PAULMAN**  
Claimant

**APPEAL NO: 11A-UI-15821-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOVIE FACTS INC**  
Employer

**OC: 11/13/11  
Claimant: Respondent (1)**

Iowa Code § 96.5(2) - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's December 2, 2011 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Lawrence Fils, the employer's CEO, and Venida Junis, the branch manager appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working again for the employer in January 2011. The claimant worked as a full-time sales representative.

In mid-October 2011 the claimant told co-workers about the problems he had with bedbugs at his efficiency apartment. The claimant's landlord sprayed to get rid of them and the claimant threw out furniture, bedding and clothes.

On November 10, Junis found what she thought was a bedbug at work. She called the corporate office, who then contacted an exterminator. The employer closed the office the afternoon of November 10 so the exterminator could spray. The exterminator confirmed that the employer had found a bedbug. Since the claimant had talked about having bedbugs at his apartment, the employer asked him if what had been done to get rid of them. The claimant told Fils that his landlord had sprayed. The employer had been told the only way to make sure bedbugs were eliminated was to have a licensed pest control person do the spraying. The employer asked for documentation that the landlord had used a licensed pest control person to get rid of the bedbugs.

On November 11, the claimant called the employer with his landlord on the phone. The landlord talked to Fils and verified that he had sprayed the claimant's apartment. The person who had

done the spraying was not licensed. After the employer learned the person was not licensed, the employer told the claimant he could not return to work until he provided documentation that a licensed pest control person sprayed his apartment. The claimant told the employer he could not afford to have this done.

On November 14, the claimant called and asked if the employer discharged him. The employer told him no, but reminded him that he could not return to work until the claimant had proof a licensed pest control had person sprayed or treated his apartment.

The claimant established a claim for benefits during the week of November 13, 2011. When the claimant picked up his check on November 18, the employer had an employee take his check to the claimant who waited for it outside. The employer no longer considered the claimant an employee as of November 18.

### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer initiated the employment separation when the employer told the claimant he could not return to work until he showed the employer that a licensed pest control person had sprayed the apartment he rented. It is understandable why the employer wanted to make sure a known bedbug problem had been properly treated. The employer did not want to again spray the office.

The claimant's reluctance to spend his money on a rented apartment for a treatment the employer required does not amount to work-connected misconduct. The employer established business reasons suspending the claimant and then terminating his employment on November 11. The claimant did not commit work-connected misconduct. He had no control how his landlord treated his rented apartment. Therefore, as of November 13, 2011, the claimant is qualified to receive benefits.

**DECISION:**

The representative's December 2, 2011 determination, reference 01, is affirmed. The employer suspended and then terminated the claimant's employment for business reasons. The claimant did not commit work-connected misconduct. As of November 13, 2011, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css