

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GUY MATNEY**  
Claimant

**APPEAL NO: 12A-UI-08469-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ADVANCE STORES COMPANY INC**  
Employer

**OC: 06/10/12**  
**Claimant: Respondent (1)**

Iowa Code 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's July 3, 2012 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. Noah Hodak, a district manager, and Mark Fiecke, the store 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 claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in July 2011. The claimant worked full time. The claimant worked as scheduled on March 31, 2012.

On April 2, 2012, the claimant's girlfriend called the employer about 20 minutes before he was scheduled to work to report he was hospitalized. The claimant's girlfriend understood from Fiecke that the claimant could be eligible for a medical leave. Also, the claimant should contact Fiecke when he was able to return to work. On April 3 or 4, the employer mailed or faxed to the hospital paperwork for the claimant's treating physician to complete and return to the employer. The employer did not receive the medical information necessary to grant the claimant a leave of absence. Also, the employer learned that the claimant was not eligible for leave under the Family Medical Leave Act because he had not worked long enough for the employer. The employer declined the claimant's medical leave request on April 25.

The claimant was hospitalized April 2 through at least April 6. The claimant had several doctor's appointments after he was released from the hospital. In April the claimant's physician was trying different medications to control the claimant's health issues. On April 25, the employer talked to the claimant on the phone and told him he needed a doctor's statement that he was released to work before he could return to work. The claimant and Fiecke met on April 27.

The claimant brought the doctor's release with him and notes of his hospitalization to the April 27 meeting. The employer talked to the claimant primarily about his performance and that he had been absent from work for a month. After the employer denied the claimant's medical leave, the absences were considered unexcused. Although the claimant brought along documentation to verify he had been hospitalized, treated by his physician and had been released to work on April 25 or 26, Fiecke did not look at or notice these documents. Instead, he told the claimant he was terminated because of his absences the last month.

The claimant talked to Hodak on May 2 to see if the employer would reverse the decision to terminate him. The claimant brought all his medical documentation with him when he met with Hodak. Even though the claimant's doctor had released him to work with no restrictions before April 27, the claimant understood he was discharged because he had not timely communicated with the employer about his on-going medical issues in April. Hodak did not look at the documentation the claimant brought with him to the May 2 meeting. The employer did not change the decision to discharge him as of April 27, 2012.

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

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting 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 ended his employment on April 27, 2012.

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 law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The claimant may have used poor judgment when he did not personally contact Fiecke after he was released from the hospital and assumed his physician completed and returned the necessary paperwork for a medical leave of absence. Based on information from his girlfriend, he understood he did not need to contact the employer until he could return to work.

The employer terminated the claimant after his medical leave was denied. This meant that his absences since April 2 were unexcused. The employer had business reasons for discharging the claimant, but discharged him because he had been unable to work April 2 through 27. The claimant did not commit work-connected misconduct. As of June 10, 2012, the claimant is qualified to receive benefits.

**DECISION:**

The representative's July 3, 2012 determination (reference 01) is affirmed. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for business reasons, but the claimant did not commit work-connected misconduct. As of June 10, 2012, 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/pjs