

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

OSCAR A CARBALLO
Claimant

APPEAL NO: 13A-UI-01443-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

JORDISON CONSTRUCTION INC
Employer

OC: 12/30/12
Claimant: Appellant (2)

Iowa Code § 96.5(1)a – Quit for Other Employment

STATEMENT OF THE CASE:

The claimant appealed a representative's February 4, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Jim DeJongh, the job superintendent, appeared on the employer's behalf. Candida Miller observed the hearing. Margarita Pizano interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge the claimant is qualified to receive benefits and the employer's account is exempt from charge.

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 2006. The claimant worked full time as a laborer putting up walls. The claimant was happy at work until September 29, 2012.

On September 29, when the claimant came to work he was talking with co-workers. The job superintendent gestured that it was time to go to work. After the claimant told the job superintendent it was Saturday and to calm down, the job superintendent became upset. The job superintendent concluded the claimant did not want to work that day and told him to leave. The claimant understood that he was not to report to work on Monday, October 1.

On October 1, the job superintendent talked to management about the September 29 incident. Management wanted the claimant to return to work. The employer called the claimant and left messages, but the claimant did not return the calls. After the claimant had been told to leave on September 29, he secured other employment that began on Thursday, October 4. The employer learned from other employees that the claimant was working for another employer.

The claimant established a claim for benefits during the week of December 30, 2012. His weekly benefit amount is \$411.00. Between October 1 and December 30, 2012, the claimant earned more than \$4,110.00 in wages from another employer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause 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 employer discharged the claimant. Instead, after the employer became upset with the claimant on September 29, the claimant obtained other employment. The claimant quit as of October 1 because he had another job. When a claimant quits because he has accepted another job, he is not disqualified from receiving benefits and the employer's account will not be charged. Iowa Code § 96.5(1)a. Therefore, as of December 30, 2012, the claimant is qualified to receive benefits.

In the alternative, if the claimant did not quit for another job, he earned requalifying wages or more than \$4,110.00 between October 1 and December 30, 2012. 871 IAC 24.28. Therefore, he is still qualified to receive benefits as of December 30 and the employer's account is still exempt from charge.

DECISION:

The representative's February 4, 2013 determination (reference 01) is reversed. The claimant quit this employment after he accepted another job. Therefore, as of December 30, 2012, the claimant is qualified to receive benefits and the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css