

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD M LEWIS
Claimant

APPEAL NO: 13A-UI-12426-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCED DRAINAGE SYSTEMS INC
Employer

OC: 10/06/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 28, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Brian Hill, the maintenance manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not 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 February 2012. He worked as a full-time plant maintenance technician. When the claimant started his employment, he received a copy of the employer's drug policy that informed him that he was subject to random drug testing. The policy also informs employees that if they refuse to submit to a random drug test, they will be discharged.

On September 25, 2013, the claimant was one of two employees selected to take a random drug test. When Hill brought the claimant to his office to complete paperwork before the claimant went to the lab for the drug test, the claimant declined to take the drug test. Hill told the claimant that if he refused to take the test, he would be terminated. The claimant still declined to take the test because he believed he would have a "dirty" test result.

Hill understood the claimant believed he would have a positive test because a prohibited drug would show up. The claimant believed he would have a positive test because he had been drinking. If the claimant had asked the employer for treatment before he selected to take a random drug test, the employer would have helped the claimant get treatment, but not after he refused to take a random drug test.

The employer ended the claimant's employment because he declined to take a random drug test on September 25, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit 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 claimant did not voluntarily quit. While he refused to take a requested drug test, he hoped to continue his employment by going to treatment.

The employer initiated the employment separation when the claimant refused to take a random drug test. 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 claimant knew or should have known when he started working, he was required to submit to random drug tests and if he refused to take a random drug test he would be discharged. On September 25, the claimant refused to take a random drug test. Even though the employer told the claimant that he would be discharged if he refused to take the test, the claimant would not submit to the requested drug test. The claimant's refusal to take the drug test amounts to work-connected misconduct. As of October 6, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representative's October 28, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 6, 2013. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css