

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL J GIBART
Claimant

L A LEASING INC
Employer

APPEAL NO. 14A-UI-09934-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/31/14
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated September 18, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on October 14, 2014. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Colleen McGuinty participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant started working for the employer on September 17, 2013. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant completed a temporary work assignment at UFP Technologies from May 5 to 12, 2014.

He was offered and accepted an assignment at Markman Peat Corporation that was to start on May 28, 2014. The assignment was a long-term full-time assignment and paid \$8.25 per hour.

The claimant did not report to work and did not call the employer to notify the employer about why he was absent. The next day, the employer issued and the claimant signed a first written warning explaining that if for any reason he was going to be late or miss work, he was to call Sedona. And another no call, no show could lead to possible termination. The claimant offered no excuse for missing work. The form issued to the claimant has boxes for counseled, formal warning, written warning, 2nd written warning, and discharge. Written warning was checked.

The employer did not discharge the claimant and he remained as an active employee. He was not allowed to return to Markman Peat Corporation because he had been absent on May 28 and was not offered any other assignments.

After the hearing had concluded, the claimant called the Appeals Bureau at 9:21 a.m. He said he believed he had provided his telephone number, but had no control number and did not call in within 5 minutes of the hearing as parties are instructed when the call in . He was waiting for a call from someone with the Appeal bureau

REASONING AND CONCLUSIONS OF LAW:

As an initial matter I conclude the claimant has not shown good cause to reopen the hearing as required by Iowa Admin. Code r. 871-26.14(7)c

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

In this case, the claimant did not voluntarily quit employment. The evidence is clear that the employer did not discharge the claimant. He was issued a warning using a disciplinary action form with boxes for counseled, formal warning, written warning, 2nd written warning, and discharge. Written warning was checked. There is no unemployment disqualification issued based on a claimant receiving a written warning. No disqualification is warranted in this case.

DECISION:

The unemployment insurance decision dated September 18, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs