

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID J MORGAN
Claimant

APPEAL NO: 13A-UI-01649-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LABOR READY MIDWEST INC
Employer

OC: 01/06/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Nondisqualifying Employment Separation

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 8, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Matt Ricketts, 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 concludes the claimant is 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 reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing agency that provides day labor to clients. The claimant initially registered to work for the employer's clients in November 2008. A person who wants to work for one of the employer's clients must show up at the employer's office each day he wants work.

When the claimant showed up at the employer's office on December 15 through 18, the employer assigned the claimant and two other people to the same assignment. On December 19, when the claimant showed up at the employer's office, the employer told him and the other two people that the client no longer wanted them at the assignment because there was an issue of payment for transportation and the client was not going to pay for transportation costs. The employer did not have any other work to assign to the claimant on December 19.

The claimant went to the employer's office on December 20 and 21 for work. The employer did not have work to assign to the claimant for the rest of the week.

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. A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j. The evidence does not establish that the claimant voluntarily quit his employment. When the client no longer wanted the claimant to work, the claimant continued to report to the employer's office for work, but the employer did not have another job to assign to him.

The client ended the assignment. 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 evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of January 6, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements.

DECISION:

The representative's February 8, 2013 determination (reference 01) is reversed. The claimant did not voluntarily quit his employment. The claimant's assignment ended on December 19, 2012, for nondisqualifying reasons. As of January 6, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs