

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSE L TAUKE**  
Claimant

**EXPRESS SERVICES INC**  
Employer

**APPEAL NO: 14A-UI-01373-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/29/13**  
**Claimant: Respondent (1)**

Section 96.5-2a – Discharge  
871 IAC 24.32(1) – Definition of Misconduct

**STATEMENT OF THE CASE:**

The employer appealed a department decision dated January 30, 2014, reference 02, that held she voluntarily quit with good cause attributable to the employer on December 19, 2013, and benefits are allowed. A telephone hearing was held on March 3, 2014. The claimant did not participate. Valerie Hefel, Staffing Coordinator, participated for the employer.

**ISSUE:**

Whether the claimant voluntarily quit without good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The employer is a temporary employment firm. The claimant began work for the employer on December 2, 2013 on assignment at Blackmore Group as a full-time (telemarketer) lead generator. The Blackmore client notified the employer it was ending the work assignment on December 19, 2013. Claimant was not meeting its standard quota of calls to generate leads.

Claimant failed to respond to the hearing notice. There is no UI Appeals C2T telephone-record that claimant called and provided a phone number to be called for this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The administrative law judge concludes employer failed to establish claimant was discharged for misconduct on December 19, 2013.

The employer discharged claimant when its business client ended the assignment due to a lack of production. Claimant was failing to meet a telephone calls/lead quota that was most probably due to lack of ability rather than deliberate conduct during a very brief period of employment.

**DECISION:**

The department decision dated January 30, 2014, reference 02, is affirmed. The claimant was not discharged for misconduct on December 19, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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