

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive unemployment insurance benefits, or did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The employer is a temporary staffing agency. The claimant registered to work for the employer on May 17, 2004. The employer assigned the claimant to an assignment on August 16, 2004, at Climax. The claimant worked at Climax until the week of August 19, 2005. Although Climax still had work for someone to do, on August 19, 2005, a Climax representative asked the employer to end claimant's assignment for attendance issues. The claimant's allergies and asthma's resulted in his inability to work sometimes. Even though the employer told the claimant to contact the employer, there were times the claimant only notified the Climax supervisor. The claimant understood the Climax supervisor reported his absences to the employer.

Even though the Climax assignment ended, the employer still considered the claimant eligible for other assignments. The employer assigned the claimant to another job that started on August 28, 2005. The claimant worked at this assignment for 2.5 hours. The dust at this work site affected the claimant's asthma. The on-site supervisor on August 28 told the claimant to leave because he was wheezing and experienced breathing problems. When the claimant contacted the employer the next day, August 29, the employer did not have another job to assign to the claimant.

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 facts do not establish that the claimant voluntarily quit either 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). For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The assignment at Climax ended for nondisqualifying reasons. Even though the claimant had been absent a number of times, his absences occurred because his allergies and asthma affected his health to the extent he was unable to work. The employer recognized that the claimant did not intentionally fail to report to work as scheduled and assigned the claimant to another job that started August 28, 2005. The claimant started this assignment but the dust at this work place adversely affected the claimant's health to the point he experienced breathing problems. The supervisor at this assignment sent the claimant home because the claimant could not work in that environment. When the claimant contacted the employer for another job assignment, the employer still considered the claimant eligible for another assignment, but the employer did not have a job to assign to the claimant. The claimant's unemployment status as of August 28 and 29 occurred as the result of nondisqualifying reasons.

As of August 21, 2005, the claimant is qualified to receive unemployment insurance benefits. The claimant remains qualified to receive benefits even after a job assignment ended on August 28, 2005.

DECISION:

The representative's September 27, 2005 decision (reference 02) is affirmed. The claimant's job assignment ended on August 19, 2005 for nondisqualifying reasons. Even though a subsequent assignment ended on August 28, 2005, this assignment also ended for nondisqualifying reasons. As of August 20, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjw