

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON K GRANT
Claimant

APPEAL NO. 16A-UI-09702-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EGS CUSTOMER CARE INC
Employer

OC: 08/14/16
Claimant: Appellant (3)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated August 31, 2016, reference 01, that denied unemployment insurance benefits finding that the claimant had voluntarily quit work on August 18, 2016, by failing to report for work for three days and not notifying the employer of the reason. After due notice was provided, a telephone hearing was held on September 22, 2016. Claimant participated. The employer participated by Ms. Turkessa Newson, Human Resource Generalist, and Ms. Veronica Porter, Team Lead.

ISSUE:

The issue is whether the claimant was discharged for misconduct in connection with his work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Jason Grant was employed by EGS Customer Care, Inc. from August 19, 2013 until August 18, 2016 when he was terminated for failure to report for work for three consecutive days without notifying the employer of the reason. Mr. Grant was employed as a full-time customer service representative and was paid by the hour. His immediate supervisor was Ms. Veronica Porter.

Mr. Grant was separated from his employment with EGS Customer Care, Inc. by the employer after Mr. Grant had failed to report for scheduled work and did not notify the employer of his impending absences on August 15, 16, and 17, 2016. Mr. Grant was aware of the company policy which requires employees to notify the employer of each impending absence each day by calling in to a call-in line.

Mr. Grant had been off work for a period of time previously and his team leader had specifically advised Mr. Grant to request a leave of absence from the company if he continued to be ill and unable to report for work. The claimant was given this information on August 8, 2016. The claimant did not submit any verification from his doctor that he needed to be absent and did not request a leave of absence as he had been advised to do.

Mr. Grant did not call in to report his impending absences on August 15, 16, or 17 because he had used up all available minutes on his cellular telephone and did not have the funds to pay for more minutes or to pay for public transportation to report to work those days. Because Mr. Grant was aware of the requirement that he notify the employer each day and that he would be subject to termination if he did not do so for three consecutive work days, Mr. Grant turned in his employee badge by having his neighbor who also worked at the facility deliver the badge to the company.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

In the case at hand, the evidence in the record establishes that although Mr. Grant did not intend to quit his job, he was discharged by the employer for violation of the company policy which requires employees to provide notification to the employer each day they are absent and provides that an employee will be terminated from employment if they fail to report for work for three consecutive days without giving the employer a reason.

Reasonable alternatives were available to Mr. Grant but he did not avail himself of them. The claimant was offered the option of requesting a leave of absence but did not make the request

nor submit any doctor's information to verify the need nor did the claimant avail himself of other methods of contacting the company such as using a landline telephone, the cellular telephone of others or leaving a message on the company's answering service to inform the company of his inability to report for scheduled work and the reasons for it. The claimant's failure to report for scheduled work and in the alternative provide the required notification to the employer in the various manners that were available showed a disregard of the employer's interests and standards of behavior that the employer had a reasonable right to expect of employees under the provisions of the Iowa Employment Security Law. Accordingly, the claimant is disqualified for unemployment insurance benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated August 31, 2016, reference 01, is affirmed as modified. The portion of the determination disqualifying the claimant from receiving benefits until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible is affirmed. The portion of the determination finding the claimant voluntarily quit work is modified to find that the claimant was discharged for misconduct.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs