

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHANE S SATTERLEE
Claimant

APPEAL NO. 11A-UI-07001-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

G M R I INC
Employer

OC: 04/24/11
Claimant: Respondent (1-R)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

G M R I, Inc. filed a timely appeal from an unemployment insurance decision dated May 16, 2011, reference 01, that allowed benefits to Shane S. Satterlee. After due notice was issued, a telephone hearing was held July 11, 2011 with Mr. Satterlee participating. General Manager Michael Tagnetti participated for the employer.

ISSUES:

Was the separation a quit or a discharge?
Was the separation a disqualifying event?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Shane S. Satterlee was employed as a dishwasher at an Olive Garden restaurant owned by G M R I, Inc. from March 16, 2009 until April 15, 2011. Mr. Satterlee suffers from a form of schizophrenia. Feeling a panic attack coming on during his shift on April 14, 2011, he left without notification. He called the employer on the following morning before his next shift would start. He was not allowed to return to work. The employer was aware of Mr. Satterlee's health matter. He had been granted a leave of absence a few weeks earlier for medication adjustment. He had returned to work gradually over the two weeks leading up to the separation.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the case should be analyzed as a quit or a discharge. According to the employer's policy a mid-shift departure without authorization is automatically deemed a quit. However, in the law of unemployment insurance, a disqualification for a voluntary quit cannot occur unless there is evidence of an intent to sever the employment relationship and a overt act carrying out that intention. The administrative law judge finds no evidence of an intent to sever the employment relationship. Thus, for unemployment insurance purposes, it must be considered a discharge.

The question is whether the evidence establishes misconduct. It does not.

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.

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 evidence establishes that the final incident leading to the discharge occurred when Mr. Satterlee left work in mid-shift abruptly because of a medical condition. This is not sufficient to establish misconduct. Benefits are allowed.

The question of whether Mr. Satterlee is medically able to work at this time is remanded to the Unemployment Insurance Services Division.

DECISION:

The unemployment insurance decision dated May 16, 2011, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. The question of whether the claimant is medically able to work at this time is remanded to the Unemployment Insurance Services Division.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs