

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORDARO T GRIFFIN**

Claimant

**APPEAL NO: 09A-UI-06581-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**APAC CUSTOMER SERVICES OF IOWA**

Employer

**OC: 03/29/09**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Cordaro T. Griffin (claimant) appealed a representative's April 14, 2009 decision (reference 01) that concluded he was not qualified to receive benefits, and the account of APAC Customer Services of Iowa LLC (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 26, 2009. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the hearing. A message was left for the employer's witness to contact the Appeals Section for the hearing, but the employer did not contact the Appeals Section. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in late September or early October 2008. The claimant worked as a full-time customer service representative. Prior to February 23, 2009, the employer had not warned the claimant his job was in jeopardy for attendance issues.

When the claimant learned he had to spend 2.5 days in jail and one day was a day he was scheduled to work, he notified the employer prior to going to jail that he would not be able to work one day and why. The person the claimant talked to did not say anything.

After the claimant was released from jail, he reported to work the next scheduled day. The employer's director of operations told the claimant he no longer worked for the employer. The employer did not explain why the claimant's employment ended.

**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. The law presumes a claimant voluntarily quits employment without good cause if he becomes incarcerated. 871 IAC 24.25(16). The claimant overcame this presumption when he notified the employer before he went to jail that he would miss one day of scheduled work because he would be in jail. The evidence establishes that the employer discharged the claimant.

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 evidence does not indicate the employer had previously warned the claimant his job was in jeopardy for attendance issues. Instead, the facts establish the employer discharged the claimant for business reasons that do not constitute work-connected misconduct. Therefore, as of March 29, 2009, the claimant is qualified to receive benefits.

**DECISION:**

The representative's April 14, 2009 decision (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of March 29, 2009, the claimant is qualified to

receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css