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

RORY S PRAZAK
Claimant

APPEAL NO. 13A-UI-11203-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOHERTY STAFFING SOLUTIONS
Employer

**OC: 12/02/12
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated September 25, 2013, reference 03, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 15, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Glenda Niemiec participated in the hearing on behalf of the employer with a witness, Ann Dodge.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked part time for the employer from May 15, 2013, to June 27, 2013, on an assignment at Cargill as a laborer in an egg factory.

The claimant experienced problems with an employee of Cargill, Tracey, who was yelling at him and making rude remarks that he considered harassing. He complained to his lead worker with Cargill about Tracey's conduct, but the situation did not improve.

On June 27, 2013, there was a problem with the machine he was working with malfunctioning. Eggs were piling up. He was trying to the stop the machine. Tracey yelled at him and then told him to "get the fuck out of here." The claimant decided to leave to avoid further clashes with Tracey and talk to the employer's on-site supervisor, Ann Dodge, the next day. He did not see the lead worker around and did not search for him because the lead worker had not corrected the problems after he complained before. The claimant did not intend to quit when he left work.

The next morning, the claimant tried to explain to Dodge what had happened, but Dodge told him that his assignment was over because he had walked off the job.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. To voluntarily quit means a claimant exercises a voluntary choice between remaining employed or discontinuing the employment relationship and chooses to leave employment. To establish a voluntary quit requires that a claimant must intend to terminate employment. Wills v. Employment Appeal Board, 447 N.W.2d 137, 138 (Iowa 1989); Peck v. Employment Appeal Board, 492 N.W.2d 438, 440 (Iowa App. 1992).

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant did not intend to quit his job when he left work. He was trying to extricate himself from a difficult situation after the Cargill worker used extreme profanity and told him to leave. I believe the claimant's testimony that he was told that the assignment was terminated because he had walked off the job. At most the claimant made a good faith error in judgment in not tracking down a Cargill supervisor before leaving work that day.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base-period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated September 25, 2013, reference 03, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs