

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARCUS C COOPER
Claimant

APPEAL NO: 12A-UI-06134-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROADLAWNS MEDICAL CENTER
Employer

**OC: 01/15/12
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 15, 2012 determination (reference 03) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant had been discharged for disqualifying reasons. The claimant appeared for the in-person hearing on June 27, 2012. The employer did not appear for the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits as of April 29, 2012.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of January 15, 2012. The employer hired the claimant to work as a full-time transporter on February 20, 2012.

When the claimant was not at work, he injured his Achilles tendon on March 3, 2012. He saw his physician on March 4. The claimant's physician restricted him from working March 5 through 9. The claimant worked on March 12 and 13. On March 14, the claimant gave the employer a doctor's statement indicating he was restricted from working until further notice because he was having surgery on March 15 to repair his Achilles tendon.

After the claimant learned he needed surgery, he talked to his immediate supervisor and the human resource director. After talking to them, he understood he would have a job when his doctor released him to return to work after the surgery. As soon as the claimant's physician released him to return to work, he contacted the employer on April 30 about returning to work. The claimant learned the employer had to replace him because the other transporter also had surgery. The employer did not have another job for the claimant when he was released to return to work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

Since the employer recently hired the claimant and the claimant had only worked about two weeks before he injured his Achilles tendon, the claimant was not eligible for a medical leave of absence. The employer's business needs required hiring another person for the claimant's transporter job. The employer ended the claimant's employment because he was unable to perform the job the employer hired him to do for over a month. Even though the employer had justifiable business reasons for ending the claimant's employment, he did not commit work-connected misconduct. Instead, he was unable to work because he injured his Achilles tendon and was off work when he had surgery to repair the tendon. As of April 29, when his physician released him to return to work, the claimant is qualified to receive benefits.

The employer is not one for the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's May 15, 2012 determination (reference 03) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of April 29, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs