

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SACRAMENTO CORONA MARTINEZ
Claimant

APPEAL NO: 14A-UI-00030-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AMVC EMPLOYEE SERVICES LLC
Employer

**OC: 12/01/13
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 23, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated at the February 21 hearing with his attorney, Michael Tulis. The employer did not respond to the hearing or participate in the hearing. Ike Rocha interpreted 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.

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 September 2011. He worked full time. Prior to December 3, 2013, the claimant's job was not in jeopardy and he had not received any warnings.

The claimant was arrested and incarcerated on November 30, December 1 and 2. He was unable to report to work when he was in jail. His wife, one of the employer's supervisors, informed the claimant's immediate supervisor that the claimant was unable to work and why. After the claimant was released from jail, the claimant reported to work as scheduled on December 3, 2013. He talked to his supervisor when he reported to work and explained what had happened. His supervisor initially indicated that the claimant could use vacation days to cover his absences for those three days. That afternoon, the claimant learned upper level management decided to end his employment.

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 evidence establishes that the employer discharged the claimant. The claimant did not quit.

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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Since the evidence does not establish the claimant's job was in jeopardy prior to December 3, the employer received information on November 30, December 1 and 2 that the claimant was unable to work and the claimant was initially told he could use to vacation time to cover his three days of absence, the claimant did not commit work-connected misconduct. The facts do not establish that he was excessively absent from work. The claimant is qualified to receive benefits as of December 1, 2013.

DECISION:

The representative's December 23, 2013 determination (reference 01) is reversed. The claimant did not quit. Instead, the employer discharged him for business reasons. The claimant did not commit work-connected misconduct. As of December 1, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs