

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVE W DAU
Claimant

APPEAL NO: 12A-UI-10379-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMPUTER TEAM INC
Employer

OC: 08/05/12
Claimant: Appellant (2)

Section 96.5-2a – Discharge

STATEMENT OF THE CASE:

The claimant appealed a department decision dated August 22, 2012, reference 01, that held he voluntarily quit employment without good cause on August 6, 2012, and benefits are denied. A telephone hearing was held on September 24, 2012. The claimant participated. David Smith, President, participated for the employer.

ISSUE:

The issue is whether the claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant began work on June 23, 2008 and last worked for the employer as a full-time computer consultant on August 6, 2012. The claimant reported for work his last day and went into the employer's office to discuss a client issue. When claimant perceived his employer was unhappy with him, claimant said if you do not like my work you can get rid of me (or words to that effect). When the employer responded with a statement asking if claimant was quitting (he would get a resignation form), he stated no.

The employer had planned to issue a written discipline to claimant but it never presented it to him prior to the discussion. The employer told claimant he believed claimant had quit and escorted him from the premises.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

The administrative law judge concludes the employer failed to establish claimant was discharged for misconduct on August 6, 2012. The employer had intended to issue a disciplinary warning and there was no incident in the meeting of misconduct.

While claimant might have been upset and frustrated when confronted about a client issue on August 6, he had not given any prior notice he was quitting. His statement to the employer about not liking his job performance you can get rid of me is not a challenge to be fired or voluntarily quitting employment. The employer jumped on the statement as a voluntary quit and would not consider claimant's subsequent clarification statement that he was not quitting.

DECISION:

The department decision dated August 22, 2012, reference 01, is reversed. The claimant was not discharged for misconduct on August 6, 2012. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs