

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD P TULLY
Claimant

APPEAL NO: 14A-UI-04599-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVANCE SERVICES INC
Employer

OC: 03/30/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's May 2, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account potentially subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant participated at the May 21 hearing. Michael Payne appeared on the employer's behalf. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits, but the employer's account will not be charged during the claimant's current benefit year.

ISSUE:

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

FINDINGS OF FACT:

The employer is a temporary staffing service. The claimant registered to work for the employer's clients on February 6, 2014. The claimant signed the employer's assignment policy on February 6. (Employer Exhibit One.) This policy informed the claimant he was responsible for contacting the employer within three days of completing an assignment to ask for a new assignment.

The employer assigned the claimant to a job that he started on February 10, 2014. S.G., the employer's employee, contacted the claimant the evening of March 26 and told him his last day at this assignment would be Friday, March 28. The claimant asked if he could work until Saturday, March 29, and was told no. The claimant then asked S.G. if the employer had another other job for him to be assigned to. The employer did not have another job at that time. The claimant called S.G. every week about another job assignment. The claimant understood he had to call S.G.'s personal cell phone to get through to her. She did not respond to his messages.

The client where the claimant worked at until March 28 advised temporary employees, such as the claimant, to file a claim for benefits on Monday, March 31. The claimant established a claim for benefits during the week of March 30, 2014. The employer is not one of the claimant's base period employers. The claimant filed claims for the weeks ending April 5 through May 10, 2014. He received his maximum weekly benefit amount of \$186 for each of these weeks.

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.

A claimant, who is a temporary employee of a temporary employment firm, may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise in writing about the three-day notification rule and that a claimant may be disqualified from receiving unemployment insurance benefits if he fails to timely notify the employer a job has been completed. Iowa Code § 96.5(1)j. In this case the claimant's testimony that he immediately asked S.G. about another job assignment, must be given more weight than employer's reliance on hearsay information. As a result, the claimant satisfied the requirements of Iowa Code § 96.5(1)j.

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).

Completing a job assignment does not amount to work-connected misconduct. The claimant became unemployed as of March 28 because he completed a job assignment.

As of March 30, 2014, the claimant is qualified to receive benefits. The employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's May 2, 2014 determination (reference 01) is affirmed. The claimant became unemployed as of March 28, 2014, for nondisqualifying reasons. As of March 30, 2014, 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/css