

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAMON FLAUGHER
Claimant

APPEAL NO: 14A-UI-08559-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL INCORPORATED
Employer

**OC: 07/20/14
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 12, 2014 (reference 01) determination 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 September 8 hearing. The employer did not respond to the hearing notice or participate at 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 reasons that do not constitute work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in November 2008. He worked full time as a reliability engineer. In early 2013 the employer placed the claimant on a work improvement plan which the claimant satisfactorily completed. The employer did not give the claimant any other warnings.

In June 2014 the claimant's supervisor asked the claimant to resign because he was not a "good fit" for the job he had. The claimant was surprised and asked if the employer would transfer him to another job. His supervisor told him no. The claimant had the same job throughout his employment. The claimant understood that even if he did not resign, he would not have a job. The employer agreed the claimant could work another month. The claimant's last day of work was July 14, 2014. If the claimant's supervisor had not asked the claimant to resign, the claimant had no plans to resign.

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. Since the claimant's supervisor asked the claimant to resign when he had no intention of resigning,

the claimant reasonably believed that if he did not resign, he would be discharged anyway. Under these facts, the employer initiated the employment separation. For unemployment insurance purpose, the employer discharged the claimant.

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).

The employer may have had business reasons for asking the claimant to resign, but the facts do not establish that the claimant committed work-connected misconduct. Therefore, as of July 20, 2014 the claimant is qualified to receive benefits.

DECISION:

The representative's August 12, 2014 (reference 01) determination is reversed. The claimant did not voluntarily quit his employment. Instead, the employer initiated the employment separation. The employer effectively discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of July 20, 2014 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/can