

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KOKOU AKLASSOU-GANAN
Claimant

APPEAL NO. 08A-UI-11007-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

**OC: 10/12/08 R: 05
Claimant: Appellant (2)**

Section 96.6-2-a - Discharge

STATEMENT OF THE CASE:

Kokou Aklassou-Ganan (claimant) appealed a representative's November 18, 2008 decision (reference 05) that concluded he was not qualified to receive benefits and the account of Team Staffing Solutions, Inc. (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 11, 2008. The claimant participated in the hearing. Sarah Fiedler, the human resource claims administrator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 registered to work on behalf of the employer's clients in April 2008. The employer did not assign the claimant to a job until September 11, 2008. The employer understood the claimant's shift started at 5:30 a.m. The employer's management did not learn until October 21 that the claimant had not worked since October 9.

Sometime after October 21, the employer received information from the client that the claimant was not available to work the hours the client needed him to work. The employer's client reported that after October 9 the claimant indicated he could not start work until 6:00 .a.m. when the shift started at 5:30 a.m. and had to leave work early at 2:30 p.m. instead working until the end of his shift at 3:00 p.m. Although the claimant stopped at the employer's office on October 10 and 17 to pick up his paycheck, the employer had no record that the claimant asked the employer about another job assignment.

The claimant did not return to work after October 9, because he received a phone call from a person he believed represented the employer. The employer's representative told the claimant that this job assignment had ended and he was no longer needed at the assignment.

While the employer asserted its records indicated the claimant attended an orientation on September 10, the claimant denied attending any orientation. The employer's records also show the claimant received a handbook informing him he was required to contact the employer within three working days after he completed or quit an assignment. The claimant does not recall receiving any handbook or being told about contacting the employer after completing or quitting a job assignment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if the individual 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 the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code § 96.5-1-j.

The facts suggest the employer informed the claimant his job assignment was over as of October 9, 2008. In this case the employer relied on unsupported hearsay information that the claimant was not available to work the hours the client needed him to work. If this were true, it supports the claimant's testimony that someone told him he no longer had a job with the client. Since the claimant testified he was able to work any at any time, his testimony must be given more weight than the employer's hearsay information. When a claimant is told by the employer his job assignment has ended, Iowa Code § 96.5-1-j does not apply. Based on a preponderance of credible evidence, the facts do not establish that the claimant quit this assignment.

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).

The evidence establishes the employer or employer's client ended the claimant's job assignment for nondisqualifying reasons. As a result, the claimant is qualified to receive benefits, as of October 12, 2008.

The employer is not one of 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 November 18, 2008 decision (reference 05) is reversed. The claimant did not voluntarily quit his employment. Instead, the claimant became unemployed when he was told he no longer worked at an assignment. The evidence does not establish the claimant was discharged for disqualifying reasons. As of October 12, 2008, 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