

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY W STUFFLEBEAM
Claimant

APPEAL NO. 12A-UI-00315-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WATERSIDE INVESTMENT COMPANY LLC
Employer

**OC: 04/10/11
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Waterside Investment Company, doing business as Holiday Shores Motel, filed a timely appeal from an unemployment insurance decision dated December 19, 2011, reference 01, that allowed benefits to Terry W. Stufflebeam. After due notice was issued, a telephone hearing was held February 13, 2012 with Mr. Stufflebeam participating and being represented by Paul J. McAndrew, Jr., attorney at law. Exhibit One was admitted into evidence on his behalf. General Manager Mark Rhodes participated on behalf of the employer, presenting additional testimony by Ann Rhodes and Sue Lane. This matter is considered on a consolidated record with 12A-UI-00316-AT and 12A-UI-00317-AT. The administrative law judge takes official notice of agency benefit payment records.

ISSUES:

Was the separation a quit or a discharge?
Was the separation a disqualifying event?

FINDINGS OF FACT:

Terry W. Stufflebeam was employed as onsite manager and maintenance engineer of the Holiday Shores Motel in McGregor, Iowa. The motel is owned by Waterside Investment Company. Mark Rhodes is the principal. Mr. Stufflebeam and his wife lived at the motel. In the spring of 2011, Mr. Stufflebeam and his wife told Mr. Rhodes in general terms that Mr. Stufflebeam would be leaving the employment at some point in the future. Mr. Rhodes then placed an ad on Craig's List for a new manager. Mr. Stufflebeam learned of this after receiving contacts from individuals concerning the position. In time, Mr. Rhodes hired Sue Lane and John White for the position. Mr. Rhodes asked Mr. Stufflebeam to stay on while the new managers were trained. He did so, leaving the employment on May 10, 2011. Mr. Stufflebeam would have stayed longer had he been given the opportunity to do so.

Within a few weeks Mr. Rhodes hired Mr. Stufflebeam again. By this time Mr. Stufflebeam and his wife had moved to Charles City, Iowa. Mr. Stufflebeam was hired to work on specific maintenance repair projects, receiving a salary and lodging at the motel. Mr. Stufflebeam

began employment again on June 6, 2011. He was injured at work on June 7, 2011. Mr. Rhodes told Mr. Stufflebeam to take time off to heal before returning. Mr. Stufflebeam did not return after learning that the company was contesting his workers' compensation claim.

Mr. Stufflebeam had filed a claim for unemployment insurance benefits in April 2011 after floods hit northeast Iowa. He filed no weekly claims for benefits until the week of November 6, 2011. By that time he had moved to Apache Junction, Arizona, a community in which he already owned a home. He is seeking employment but has also posted on his Face book account that he is now self employed and enjoying it. Mr. Stufflebeam has received unemployment insurance benefits since the week of November 6, 2011.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge in this appeal is whether the separation on May 10, 2011 was a disqualifying event. The administrative law judge concludes that it was not. Mr. Rhodes testified that Mr. Stufflebeam had given notice of his intent to resign before he began his search for Mr. Stufflebeam's replacement. Mr. Stufflebeam disputed that testimony. The evidence in the record persuades the administrative law judge that there had been discussions between the parties about Mr. Stufflebeam leaving at some point in the indefinite future. The administrative law judge concludes that Mr. Rhodes acted proactively to hire a replacement and initiated the separation once the replacement had been hired and trained by Mr. Stufflebeam. Thus, the administrative law judge concludes that the separation was a discharge rather than a voluntary quit.

Disqualification for benefits following a discharge is appropriate if, and only if, the discharge was because of misconduct. The administrative law judge finds no evidence of misconduct in the record. No disqualification may be imposed based upon the May 10, 2011 separation from employment.

DECISION:

The unemployment insurance decision dated December 19, 2011, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs