

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES P COADY
Claimant

APPEAL NO. 08A-UI-07457-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VALLEY VIEW VILLAGE
Employer

**OC: 07/13/08 R: 02
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Valley View Village (employer) appealed a representative's August 13, 2008 decision (reference 01) that concluded James P. Coady (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 2, 2008. The claimant participated in the hearing. Gean Doss, and Sharon Sears participated in the hearing on the employer's behalf. Melissa Thompson, Ron Gilbert, Leonard Morris and Tim Rains were available to testify. 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 started working for the employer in September 2000. The claimant worked as a full-time maintenance employee. Rains was the claimant's immediate supervisor, and Doss was above Rains. In November 2007, the claimant received a copy of the employer's handbook that informed him he was to contact Rains or Doss when he was ill and had to leave work early. Even though the claimant received the employer's handbook, he understood there was no problem leaving work early when he told a co-worker he was leaving work early when he became ill at work and the co-worker informed a supervisor. When the claimant had been ill and left work prior to July 9, the employer did not reprimand him for failing to properly notify the employer he was ill and leaving work early.

Prior to July 9, the claimant's job was not in jeopardy. The claimant had not received any verbal or written warnings about any issues prior to July 9. On July 9, the claimant overheard Doss talk to another employee about problems with the cleanliness of a laundry building. The

claimant went to Doss and told him that outside people cleaned the laundry building every Wednesday.

When Doss and the claimant left one another, Doss concluded the claimant was very upset with him. After about 10 to 15 minutes, the claimant did not feel well and soiled his pants. He was concerned that he would have more problems. He told a co-worker, Morris, to let Rains know he was ill and left work early. The claimant also asked Morris to clock him out. When the claimant left about 12:30 p.m., he did not see Doss. Doss, however, saw the claimant rush to his truck and squeal out of the employer's parking lot. Doss concluded the claimant had just quit because of the verbal confrontation he had with Doss a few minutes earlier. The claimant was scheduled to work until 3:30 p.m.

After the claimant went home, he did not feel well enough to go back to work. The claimant reported to work as scheduled the next day. After Doss came to work, he talked to the claimant and learned the claimant left work early the day before because he did not feel well and had soiled his pants. Even though there had not been any previous problems with the claimant, Doss told the claimant his services were no longer needed. Doss ended the claimant's employment because the day before the claimant had been insubordinate, he left work without proper authorization and he squealed out of the employer's parking lot.

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. The facts do not establish that the claimant intended to quit his employment on July 9, when he left work early. If the claimant had quit, there was no need for him to ask Morris to inform Rains he did not feel well and had left work early. Also, the fact the claimant reported to work the next day as scheduled supports the conclusion that had no intention of quitting his employment. A preponderance of the evidence establishes 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).

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).

Based on the Doss's conclusion that the claimant was upset with his comments about the laundry building and that the claimant hurriedly left the employer's parking lot, the employer established business reasons for ending the claimant's employment on July 10, 2008. Doss,

however, acknowledged he had not known until later that the claimant talked to Morris before he left work on July 9. If Doss had known about this conversation, he admitted he would not have assumed the claimant quit when he left work early.

Since the claimant's job was not in jeopardy prior to July 9, the fact he did not talk to Rains or Doss before he left work early does not rise to the level of work-connected misconduct. The claimant may have used poor judgment, but he was also ill and possibly embarrassed. The claimant's illness and potential embarrassment also explains why he hurriedly left the parking lot. Again, the claimant used poor judgment when he hurriedly left work, but this does not amount to work-connected misconduct.

Based on the facts, the claimant did not commit work-connected misconduct. Therefore, as of July 13, 2008, the claimant is qualified to receive benefits.

DECISION:

The representative's August 13, 2008 decision (reference 01) is affirmed. The employer discharged him for reasons that do not constitute work-connected misconduct. As of July 13, 2008, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css