

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER L SLOMAN
Claimant

APPEAL NO. 13A-UI-10983-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A Y MC DONALD MFG CO
Employer

OC: 09/01/13
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 23, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 21, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Chad Cox, attorney at law. No one participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant voluntarily quit employment?
Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a production supervisor from February 2006 to August 27, 2013.

On August 26, 2013, the claimant had to deal with an employee who had an angry outburst of temper that included yelling and profanity that stopped production. To control the situation, the claimant put his arm around the employer's shoulder and walked with him away from the line. He told the employee to calm down. After the employee had calmed down, the claimant and the employee returned to work.

When the claimant reported to work the next day, the employer suspended him for three days because employees had complained about his actions toward the employee who had the verbal outburst. On August 30, 2013, the employer informed the claimant that he was discharged due to his having physical contact with the employee on August 26. The claimant was allowed to resign in lieu of being discharged but would have been terminated if he had not resigned.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. When an employer gives an employee an option to resign in lieu of being discharged, the separation is treated as a discharge. See 871 IAC 24.26(21) (quit in lieu of discharge is not a voluntary quit).

The next issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated September 23, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs