IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

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

DOUGLAS H TAYLOR
Claimant

BRIDGESTONE/FIRESTONE NORTH AMERICAN TIRE
Employer

APPEAL NO. 06A-UI-10383-C

ADMINISTRATIVE LAW JUDGE DECISION

OC: 09/24/06 R: 02
Claimant: Appellant (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Douglas Taylor filed an appeal from a representative's decision dated October 19, 2006, reference 01, which denied benefits based on his separation from Bridgestone/Firestone North American Tire (Bridgestone). After due notice was issued, a hearing was held on November 28, 2006, in Des Moines, Iowa. Mr. Taylor participated personally and offered additional testimony from Terry Taylor. Exhibits A through E were admitted on Mr. Taylor's behalf. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Taylor was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Taylor began working for Bridgestone on October 21, 2001. He last performed services on March 22, 2006, at which time he was a full-time tire beader. He was off work for medical reasons thereafter and provided monthly statements from his doctor to support the absences.

At the beginning of June, Mr. Taylor provided his doctor with the appropriate form to complete and send to the employer. His doctor wanted to have Mr. Taylor seen by a specialist before completing the form and arranged an appointment for him to be seen by an orthopedist on June 5. Mr. Taylor's chart was misplaced at the doctor's office and, therefore, the form for June was not completed timely.

On June 22, the employer sent Mr. Taylor a certified letter advising that he would be considered to have voluntarily quit five days from the date of the letter. The letter recited the fact that he had not returned to work or submitted medical evidence substantiating that he was not able to work. Mr. Taylor presumed that he had five days in which to submit medical documentation that he was still not able to return to work. He signed for the certified letter on June 26. He went to

the doctor's office on June 27 and obtained the necessary medical form. The form indicated he was to remain off work through July 26, 2006. Mr. Taylor went to Bridgestone on June 29 to deliver the document but was not allowed into the plant because he had already been discharged.

REASONING AND CONCLUSIONS OF LAW:

The employer considers Mr. Taylor to have voluntarily quit his employment because he did not return to work in response to the letter of June 22. To find a voluntary quit, there must be evidence of intent to sever the employment relationship accompanied by some overt act of carrying out that intent. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). On the evidence presented, the administrative law judge cannot conclude that Mr. Taylor intended to sever his employment relationship with Bridgestone. He had always submitted the necessary paperwork from his doctor verifying the need to be off work. The failure to submit a form in June was due to the fact that the doctor's office misplaced his chart. Mr. Taylor acted with due diligence in going to his doctor's office to obtain the missing documentation on June 27, the day after he signed for the letter from the employer. He made a good-faith effort to meet his employer's standards by delivering the missing form on June 29. On these facts, the administrative law judge cannot conclude that Mr. Taylor wanted to leave his employment. It was the employer's decision that he would not be allowed to continue in the employment. Because the separation was initiated by the employer, it is considered a discharge.

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Taylor was discharged because he did not return to work within five days of the employer's June 22 letter. However, the evidence establishes that he was still under a doctor's care and not released to work until at least July 26, 2006. As such, the absences after June 22 were for reasonable cause and, therefore, excused. It is true that Mr. Taylor had not submitted proof of the need to be absent after June 22. He did not know the documentation had not been received until he received the employer's letter of June 22. He then immediately took steps to supply the necessary paperwork. The failure to submit the paperwork before June 22 was the fault of the doctor's office due to the chart being misplaced. Given Mr. Taylor's history of always submitting the necessary forms before June 22 and given the fact that the June report was delayed by the doctor's office, the administrative law judge concludes that Mr. Taylor was not guilty of misconduct in not submitting paperwork before June 22.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to satisfy its burden of proving disqualifying misconduct. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated October 19, 2006, reference 01, is hereby reversed. Mr. Taylor was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw