

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SCOTT E HENDERSON**  
Claimant

**APPEAL NO: 09A-UI-05334-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MRS CLARK'S FOODS LC**  
Employer

**OC: 02/22/09**  
**Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Scott E. Henderson (claimant) appealed a representative's March 25, 2009 decision (reference 02) that concluded he was not qualified to receive benefits, and the account of Mrs. Clark's Foods LC (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 April 24, 2009. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the arguments of the claimant, 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 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 early March 2008. The claimant worked as a full-time I T analyst. The employer knew about the claimant's record before hiring him.

Four years ago the claimant had a substance abuse problem and wrote bad checks. The claimant ended up in prison and believed the bad checks charges had been resolved along with his drug charges when he was sentenced to prison. While the claimant was in prison, warrants became active for the same bad checks. These charges had not been resolved as the claimant believed or had been told. The claimant did not know the bad check charges had not been resolved.

Before a person is paroled, all warrants are supposed to be cleared up. When the claimant received his parole he knew nothing about the warnings for his prior bad checks and the Department of Corrections did not realize the claimant had any outstanding warrants for his arrest.

Friday night, February 6, the claimant was a passenger in a friend's car. The friend was stopped in a routine traffic check. During this traffic check, the police officers discovered the outstanding warrants for the claimant's arrest and arrested him. The claimant was sent to jail on a potential parole violation.

The claimant's family contacted the employer on Monday, February 9, and told the employer what had happened. Initially, no one knew how long the claimant would be in jail because if the claimant violated his parole, he could go back to prison. The claimant's parole office, the prosecutor and his attorney, concluded the warrants should have been resolved before the claimant was paroled.

The claimant was released from jail on February 19. He immediately left a voice mail for the employer asking if he still had a job. The next night, the employer contacted the claimant and told him he did not have a job because the employer had to move on.

### **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 law presumes a claimant quits employment if he becomes incarcerated. 871 IAC 24.25(16). This is only a presumption. In this case, the claimant did nothing wrong when he was arrested on February 6. The claimant had no idea the bad checks he wrote before he went to prison had not been resolved when he was sentenced. Before the claimant was paroled these charges should have been resolved, but were not.

Under this unique factual situation, the claimant did not voluntarily quit his employment. Since the employer did not participate in the hearing, it is not known why the claimant was unable to continue his employment after February 19, 2009. 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 facts do not establish that the claimant voluntarily quit his employment or that the employer discharged him for work-connected misconduct. Therefore, the claimant is qualified to receive benefits as of February 22, 2009.

**DECISION:**

The representative's March 25, 2009 decision (reference 02) is reversed. The claimant did not voluntarily quit his employment. The facts do not establish that the employer discharged him for work-connected misconduct. Therefore, the claimant is qualified to receive benefits as of February 22, 2009, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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