

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RENEE ROBINSON**  
Claimant

**APPEAL NO. 12A-UI-09475-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC  
SEDONA STAFFING**  
Employer

**OC: 07/15/12  
Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Renee Robinson (claimant) appealed a representative's August 6, 2012 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with L A Leasing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 29, 2012. The claimant participated personally. The employer participated by Chad Baker, Workers' Compensation Administrator for Corporate Office, and K.C. Lester, Account Manager.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 4, 2012, as a full-time temporary laborer assigned to work at Rock Tenn. On July 16, 2012, the claimant arrived at work and her position had been changed. She spoke to the core leader and the supervisor about her concerns before the shift started. They did not respond to her concerns except to tell her to start working. The claimant told the core leader and the supervisor that she was going to speak to the employer's corporate office. The claimant immediately went to the corporate office. She was instructed to return to work the following day.

When the claimant returned to work at Rock Tenn the following day, the supervisor told her she was terminated. The claimant went to the corporate office again. The employer told the claimant there was no other work for her. The employer considered the claimant to have voluntarily quit work when she went to speak with the corporate office.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant did not voluntarily quit work.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant had no intention of quitting her job. Her leaving cannot be considered as voluntary.

The administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Misconduct serious enough to

warrant discharge is not necessarily serious enough to warrant a denial of job insurance benefits. Such misconduct must be "substantial." Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). The employer terminated the claimant for asking questions about the changes in her working conditions. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

The claimant's and the employer's testimony is inconsistent. The administrative law judge finds the claimant's testimony to be more credible because she was an eye witness to the events for which she was terminated. The employer did not provide any eye witnesses to support its case.

**DECISION:**

The representative's August 6, 2012 decision (reference 02) is reversed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs