

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing firm. The claimant registered to work with the employer in January 2004. The employer assigned the claimant to a job on January 13, 2004. Since January 13, 2004, the claimant had been absent over 43 days at this job assignment. With the exception of a couple of personal days and a weather-related absence, the claimant was absent for medical reasons. When the claimant was unable to work as scheduled, she properly notified the employer.

On April 26, 2005, the employer gave the claimant her final written warning for excessive absenteeism. In July, August and September 2005, the claimant had 11 absences. These were medically-related absences. The claimant's most recent absences occurred on September 19 and 20. The claimant returned to work with a doctor's excuse. On September 22, 2005, the employer ended the claimant's assignment because of excessive absenteeism.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. 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 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).

The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The employer established compelling business reasons for discharging the claimant. Each time the claimant was unable to work, she properly notified the employer. The employer does not dispute the claimant had medical problems that prevented her from working as scheduled. Under the facts of this case, the claimant did not commit work-connected misconduct. As of September 25, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's October 12, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of September 25, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/pjs