

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HAROLD L SCHUG
Claimant

APPEAL NO: 14A-UI-09576-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LEXINGTON SQUARE LLC
Employer

OC: 08/17/14
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's September 4, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit this employment for reasons that do not qualify him to receive benefits. The claimant participated at the October 6 hearing. Tammy Elder, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

Another management hired the claimant on May 15, 2014, to work full time as an administrator. The vice president of operations of the management company, J.K. told the claimant on July 28, 2014, that he no longer worked for the employer because he did not meet the employer's standards. The employer agreed to pay the claimant an additional 30 days if he signed a resignation letter.

After this discussion, a resignation letter was drafted and sent to the claimant to sign. The claimant signed the resignation letter as the employer requested. The resignation letter indicated he was resigning as of August 27, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. The evidence does not establish that the claimant voluntarily quit this employment. Instead, the employer initiated the employment separation and told the claimant if he signed a resignation letter he would be paid through

August 27, 2014. For unemployment insurance purposes, the employer discharged the claimant.

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 defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had business reasons for ending the claimant's employment because another management company hired him and the claimant did not meet the new management company's expectations. The evidence does not establish that the claimant intentionally failed to perform his job satisfactorily. The employer did not establish that the claimant committed work-connected misconduct. As of August 24, 2014, the claimant is qualified to receive benefits.

The claimant did not work for this employer during his base period. As a result, this employer's account will not be charged during the claimant's current benefit year.

DECISION:

The representative's September 4, 2014 determination (reference 01) is reversed. The claimant did not voluntarily quit this employment. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. The employer is not one for the claimant's base period employers. As a result, the employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css