

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATASHA L DRENNER
Claimant

APPEAL NO. 08A-UI-10979-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DES STAFFING SERVICES INC
Employer

**OC: 10/19/08 R: 03
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 10, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 9, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Amy McGregor participated in the hearing on behalf of the employer with a witness, Peggy Kacher.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The employer is a staffing service that provides workers to client businesses on a temporary or indefinite basis. The claimant worked on a part-time assignment at D.W. Zinder Company performing clerical work from September 2, 2008, to October 10, 2008. She was assigned to work Monday, Thursday, and Friday.

Someone from the Zinder Company complained to Peggy Kacher, the employer's division manager, that the claimant was not working her scheduled days and was switching the days she worked. Some of these days had been pre-arranged when the claimant was hired. On October 7, 2008, Kacher told the claimant that Zinder needed her to work on Monday, Thursday, and Friday not on other days. The claimant told her that she had a doctor's appointment scheduled for Friday, October 17. Kacher told her that she would be well-advised to try and reschedule the appointment. The claimant told Kacher she would try.

The appointment was an obstetric appointment that involved a testing of her baby's heart. She tried to get it changed but it was impossible with the doctors' schedules. After she reported this to Kacher on October 9, Zinder Company requested that the claimant be removed from the assignment on October 10, 2008. Kacher informed the claimant that she was removed from the assignment but the employer might have some customer service jobs available. The claimant called the next week and asked about whether the employer had work available but was not told there was nothing at that time.

The claimant had accepted an assignment on November 3, 2008, but she was sick and unable to work. She notified the employer that she was ill. The employer gave the assignment to someone else. On November 10, 2008, the claimant began working for another employer.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code section 96.5-1 and 96.5-2-a.

The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The reason for the claimant being removed from the job assignment was not for work-connected misconduct. No willful and substantial misconduct has been proven in this case. She contacted the employer after she was removed from the assignment. Her inability to work the assignment on November 3 was not a voluntarily quitting of employment.

DECISION:

The unemployment insurance decision dated November 10, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs