

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATHANIEL T PALMER**

Claimant

**APPEAL NO. 13A-UI-02474-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FHC OF STORM LAKE IA INC**

Employer

**OC: 01/20/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 22, 2013, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 27, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with his attorney, Kevin Murray. Tanner Ruff participated in the hearing on behalf of the employer. Exhibits One through Five were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a direct support staff person from January 5, 2011, to November 19, 2012. Deidra Collins was the claimant's supervisor.

The claimant was granted three days of bereavement leave from November 13 to 15 due to the death of his grandfather. He called Collins on November 16 to check on his schedule. He was scheduled to work on November 17 and 18, but Collins told him not to worry about reporting to work those days but instead to report to the facility on November 19 at 8:00 a.m.

The claimant followed his supervisor directive and reported to work at 8:00 a.m. on November 19. Collins asked him to complete some documentation that he had not finished before going on bereavement leave and then brought him into a meeting where he was informed that his was terminated.

The termination form states he was terminated for not completing documents for October 29 and November 10 and for being absent without notifying the employer on November 19. While the employer alleges the claimant was absent for his scheduled shifts without notice on November 17, 18, and 19, this information is untrue.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 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 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, 11 (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 substantial and 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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant testified credibly, and the employer's representative's evidence was inconsistent, undercutting his credibility. He testified the claimant was absent without notice on November 17 and 18, but the termination does not say a word about these absences—which would be highly unlikely if the claimant really was a no-call/no-show each day. Mr. Ruff's assertion that it was an oversight is not credible. I believe the claimant's testimony that he was told not to come in November 17 and 18 and reported to work as instructed on November 19.

That leaves the failure to complete documentation as the only outstanding reason for the discharge. The employer has failed to prove this was willful and substantial misconduct or negligence equaling willful misconduct in culpability. While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established.

**DECISION:**

The unemployment insurance decision dated February 22, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css