

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MARGARET D SMITH  
PO BOX 36123  
DES MOINES IA 50315

WESTSTAFF USA INC  
c/o TALX UCM SERVICES INC  
PO BOX 283  
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-05735-DWT  
OC: 05/01/05 R: 02  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Weststaff USA, Inc. (employer) appealed a representative's May 16, 2005 decision (reference 01) that concluded Margaret D. Smith (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been released from a temporary job assignment for reasons that do not disqualify her from receiving unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 20, 2005. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Elizabeth Conklin, an on-site supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 temporary staffing firm. The claimant registered to work with the employer. The employer assigned the claimant to a job on November 1, 2004. The employer's business client released the claimant from this job assignment because the claimant's work performance was not satisfactory.

On May 2, 2005, the employer told the claimant she no longer worked at the job assignment. The claimant established a claim for unemployment insurance benefits during the week of May 1, 2005. The employer did not have another job to assign to her because the employer wanted the claimant to update her resume before assigning her to another job. The claimant gave the employer an updated resume on May 18, 2005. The employer assigned the claimant to another job, which she began on June 3, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the employer's business client was not satisfied with the claimant's work performance and ended her assignment on April 29, 2005.

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).

Even though the claimant's assignment ended on April 29, unsatisfactory performance does not rise to the level of work-connected misconduct. Since the claimant talked to the employer about another job assignment on May 2, she satisfied the requirements of Iowa Code §96.5-1-j. The employer basically told the claimant she needed to provide the employer with an updated resume before the employer could assign her to another job. The claimant's delay in providing an updated resume does not disqualify her from receiving unemployment insurance benefits. The claimant is qualified to receive benefits as of May 1, 2005.

DECISION:

The representative's May 16, 2005 decision (reference 01) is affirmed. The claimant became unemployed on April 29, 2005 for reasons that do not disqualify her from receiving

unemployment insurance benefits. As of May 1, 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/tjc