

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TYLER J MITCHELL**  
Claimant

**APPEAL NO. 11A-UI-06835-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PALMER COMPANIES INC**  
Employer

**OC: 10/17/10**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 13, 2011, reference 04, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Chandra Wichart participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

**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 an assignment at Wells Fargo as a legal services specialist from December 10, 2010, to April 21, 2011. The position had the potential for the claimant to be hired by Wells Fargo. When the claimant was notified that he was not going to be hired by Wells Fargo, he asked staffing consultants with the employer for a different assignment and told them he would need to start looking for another job.

In early April 2011, the claimant sent an email to his supervisor at Wells Fargo requesting April 22 off. The supervisor approved this. He also had interviews for jobs on the morning of April 19 and the afternoon of April 21. He again cleared this with his supervisors at Wells Fargo. The claimant neglected to notify the employer about his time off requests as the employer's policy required because he thought that he was covering things by notifying and getting approval from his Wells Fargo supervisors.

When the claimant did not report to work on April 22, someone from Wells Fargo contacted the employer. The claimant was contacted by a staffing company representative and asked why he was not at work. He told her that he had been approved by Wells Fargo to take the day off. The representative notified him that he was being removed from the assignment at Wells Fargo and would not be placed on any other assignments.

**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 (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).

No willful and substantial misconduct has been proven in this case. At most, the evidence shows an isolated instance of negligence by not contacting the employer as well as Wells Fargo about his time off requests.

**DECISION:**

The unemployment insurance decision dated May 13, 2011, reference 04, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs