

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSHUA A HESFORD
Claimant

GO DADDY SOFTWARE INC
Employer

APPEAL NO. 14R-UI-06001-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/09/14
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism/Tardiness

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated March 28, 2014, reference 01, that held he voluntarily quit without good cause due to lack of child care on February 28, 2014, and benefits are denied. A hearing was scheduled for April 28, 2014, and when claimant failed to participate a default decision was entered denying his appeal.

Claimant appealed the default to the Employment Appeal Board (EAB). The EAB issued a remand order on June 4, 2014 for a new hearing.

A telephone hearing was held on July 7, 2014. The claimant participated. The employer did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant was hired on June 1, 2013 and last worked as full-time internet sales on February 28, 2014. The claimant's child care nanny quit without notice. Claimant requested a one-week (five working days) paid (using PTO) or unpaid leave to find alternate child care.

Although claimant's supervisor supported claimant's leave request, the HR department denied it and claimant was terminated.

The employer failed to respond to the hearing notice. There is no UI Appeals C2T record the employer called in and offered a name(s) and phone number to be called for the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The administrative law judge concludes that the employer failed to establish misconduct in the discharge of the claimant on February 28, 2014, for excessive "unexcused" absenteeism.

Claimant made a reasonable request for leave due to an emergency circumstance to find alternate child care. The employer response to terminate is not based on job disqualifying misconduct for excessive unexcused absenteeism.

DECISION:

The decision of the representative dated March 28, 2014, reference 01, is reversed. The claimant was not discharged for misconduct in connection with employment on February 28, 2014. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs