

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 – EI

JEFFERY S LADUCER
Claimant

APPEAL NO: 11A-UI-01348-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LENNOX INDUSTRIES INC
Employer

OC: 01/02/11
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 27, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. The employer responded to the hearing notice, but was not available for the scheduled hearing. The employer did not respond to the message left when the employer's witness was called and was not available. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge finds the claimant qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in February 2010. The claimant worked as a full-time assembler.

The claimant was ill and unable to work on November 2 and 3. He called the employer these days to report he was ill and unable to work. The morning of November 4, the claimant left a message shortly before 6:30 a.m. to report he was unable to work as scheduled. The claimant's shift started at 8:00 a.m.

The claimant had a job interview with another employer the morning of November 4. After the interview, the claimant went to work. The claimant went to the employer's human resource office and indicated he had interviewed for another job and might get it. The claimant planned to work until he accepted another job. Instead of allowing the claimant to continue his employment, the employer told him he no longer a job because he had been reported as a no-call/no-show that day. The human resource representative acknowledged the employer received the claimant's calls on November 2 and 3. When the employer talked to the human resource representative, the employer had no knowledge about the claimant November 4 phone call. Prior to November 2, the claimant did not have attendance problems.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1) & (2)a. The facts do not establish that the claimant quit his employment. Instead, the evidence indicates the employer initiated the claimant's employment separation and terminated his employment on November 4, 2010.

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Casper 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 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).

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).

The employer may have had business reasons for ending the claimant's employment. The evidence does not, however, establish the claimant committed work-connected misconduct. Even if the claimant's November 4 absence was not excused, the facts indicate he properly notified the employer that he would not be at work as scheduled and did not have attendance issues. As of January 2, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's January 27, 2011 determination (reference 01) is reversed. The claimant did not voluntarily quit his employment. Instead, the employer discharged him for reasons that do not constitute work-connected misconduct. As of January 2, 2011, the claimant is qualified to receive benefits. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css