

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON L STANLEY**  
Claimant

**APPEAL NO. 10A-UI-14051-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EAST PENN MANUFACTURING CO INC**  
Employer

**OC: 08/22/10**  
**Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jason Stanley filed an appeal from a representative's decision dated October 1, 2010, reference 01, which denied benefits based on his separation from East Penn Manufacturing Company, Inc. After due notice was issued, a hearing was held by telephone on November 29, 2010. Mr. Stanley participated personally. The employer participated by David Nabozny, Policy Development & Communications Advisor.

**ISSUE:**

At issue in this matter is whether Mr. Stanley was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Stanley began working for Penn Manufacturing Company, Inc. on March 24, 2008 as a full-time production worker. He sustained an injury to his arm away from work in February of 2010, causing him to miss three to four days of work. He then continued to work his normal job until July 2. Thereafter, he was on restrictions that prevented him from performing his normal job,. Mr. Stanley returned to work in late July with a complete release from his doctor. However, nurses at the corporate level required him to obtain another opinion and, therefore, sent him to the company doctor.

The employer's doctor imposed restrictions that prevented Mr. Stanley from performing his normal job. He was placed on short-term disability. The employer's short-term disability policy prohibits an individual from collecting unemployment benefits while collecting short-term disability. Mr. Stanley filed a claim for job insurance benefits effective August 22, 2010. The employer was in contact with him on September 9 and reminded him that he could not collect both benefits at the same time. He explained that he could not support his family on the \$193.00 per week he received from short-term disability and had to collect unemployment benefits. He was told he would be considered to have quit if he collected both benefits. Mr. Stanley said he did not want to quit but had to continue with his claim for unemployment. He indicated he would forfeit the short-term disability payments.

Under the employer's policy, an individual must exhaust 26 weeks of short-term disability before collecting unemployment. Based on Mr. Stanley's decision to continue with his claim for unemployment while still eligible for short-term disability, he was considered to have quit his employment. The above matter was the sole reason for the separation.

**REASONING AND CONCLUSIONS OF LAW:**

A quit is a separation initiated by the employee whereas a discharge is a separation initiated by the employer. 871 IAC 24.1(113). To find a voluntary quit, there must be evidence of an intent to sever the employment relationship accompanied by some overt act carrying out that intent. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The administrative law judge cannot find that Mr. Stanley intended to end his working relationship. He never told the employer he was quitting. In fact, he stated he did not want to quit, that he only filed for unemployment because he needed the income. It was the employer's decision that he could not remain in the employment. As such, the separation was initiated by the employer and is considered a discharge.

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Stanley was discharged because he was receiving unemployment benefits while also receiving short-term disability benefits through the employer. Since he was not working, he had the legal right to file for unemployment. It is noteworthy that Mr. Stanley's own doctor had released him to work without restrictions. But for the restrictions imposed by the employer's doctor, he presumably would have been working when he filed for unemployment.

Mr. Stanley's exercise of his legal right to file for unemployment did not evince a willful or wanton disregard of the employer's interests or standards. While the employer may have had good cause to discharge him because of its policy, conduct that might warrant a discharge will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

**DECISION:**

The representative's decision dated October 1, 2010, reference 01, is hereby reversed. Mr. Stanley was discharged by East Penn Manufacturing Company, Inc., but disqualifying misconduct has not been established. Benefits are allowed, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw