

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

JASON R CHAMPAGNE
2715 S 18TH ST APT 206
CLINTON IA 52732

SANGHA INC
JAY KAY MINI MART I & II
2148 CAMANCHE AVE
CLINTON IA 52732

Appeal Number: 04A-UI-02045-DWT
OC 01/11/04 R 04
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, 4th 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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Jay Kay Mini Mart I & II (employer) appealed a representative's February 17, 2004 decision (reference 04) that concluded Jason R. Champagne (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been laid off for lack of work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 16, 2004. The claimant responded to the hearing notice but was not available at the phone number he provided to the Appeals Section. Kamal Sangha, the owner/manager, appeared on the employer's behalf. During the hearing, Employer's Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, 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 his employment for reasons that do not qualify him to receive unemployment insurance benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked between two and three months for the employer. He worked as a part-time cashier. In mid-November 2003 the employer gave the claimant a warning for leaving the store unattended for more than ten minutes. In early January 2004 the claimant developed health problems and notified the employer he was again ill and unable to work. Since the claimant had been ill before, the employer told the claimant to take some time off to recover.

The employer did not schedule the claimant. The employer, however, was short on help and hired a new employee. The claimant was then put on an on-call basis. The claimant's part-time employment ended the first week of January 2004.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. 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 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 facts indicate the employer stopped scheduling the claimant to work in early January 2004 because he was ill. When the claimant was ill, the employer did not have enough employees to cover his shifts and had to hire a new employee. This left the claimant as an on-call employee because the employer did not have enough work to schedule him as he had worked before. The employer had compelling reasons to hire another employee when the claimant was ill and unable to work. The claimant's failure to work as scheduled in early January 2004 does not constitute work-connected misconduct. The law specifically indicates when a claimant is ill and unable to work he has not committed work-connected misconduct. Based on the reasons for his separation from this employer, the claimant is qualified to receive unemployment insurance benefits as of January 11, 2004.

DECISION:

The representative's February 17, 2004 decision (reference 04) is affirmed. The employer hired a new employee to replace the claimant when he was ill and unable to work. The reasons for the claimant's separation do not constitute work-connected misconduct. Therefore, as of January 11, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/b