

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMIE A JOHNSON**  
Claimant

**APPEAL NO. 10A-UI-04714-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS SERVICES INC**  
Employer

**OC: 02/14/10**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
Section 96.4-3 – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated March 22, 2010, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on May 13, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Natasha Johnson. No one participated in the hearing on behalf of the employer.

**ISSUES:**

Was the claimant discharged for work-connected misconduct?

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked full time for the employer on an assignment at Heinz Quality Chef Foods from November 12, 2009, to February 11, 2010.

The employer discharged the claimant for absenteeism on February 12, 2010. The days the claimant missed were due to a family member's illness. He properly notified the employer if he had to be absent from work.

The claimant filed a new claim for unemployment insurance benefits with an effective date of February 14, 2010. Since filing for unemployment benefits, the claimant has been able to work, available for work, and actively seeking work.

**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. There is no evidence that the claimant quit.

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).

No willful and substantial misconduct has been proven in this case. The claimant's absences were for legitimate reasons and properly reported.

The next issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. Despite his wife's illness, the evidence establishes the claimant meets the requirement of being available for work.

**DECISION:**

The unemployment insurance decision dated March 22, 2010, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css