

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON A JUETT
Claimant

APPEAL NO: 14A-UI-13000-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOWKER MECHANICAL CONTRACTORS
Employer

**OC: 11/16/14
Claimant: Respondent (1)**

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 9, 2014 (reference 01) determination that held the claimant qualified to receive benefits because he had been discharged for non-disqualifying reasons. The claimant participated at the January 14 hearing. Robert Yoke, the safety director; Chris Bovero; and Kent Nanke; appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The employer hired the claimant to work as a full-time iron worker on November 7, 2014. When the employer hired the claimant, the employer explained that his employment was conditioned upon passing various tests and a criminal background check.

The client where the claimant worked received the claimant's background check. The client informed the employer that based on the claimant's background check he was not eligible to work for the client. The employer does not know what information the client reviewed to make this decision. The claimant does not know why the client would not allow him to continue working because he only has an OWI and the job did not require him to drive. The claimant knew of no other issues that would be noted on his criminal background check. The employer informed the claimant on November 13 that he could no longer work for the employer.

The claimant established a claim for benefits during the week of November 16, 2014. The employer is not one of the claimant's base-period employers. The claimant has filed and received benefits since November 16, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer had no choice but to end the claimant's employment after the client decided the claimant was not eligible to work at the client's location. The client may have had business reasons for deciding the claimant was ineligible, but the evidence presented at the hearing does not establish that the claimant committed work-connected misconduct. As of November 16, 2014 the claimant is qualified to receive benefits.

The employer is not one of the claimant's base-period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's December 9, 2014 (reference 01) determination is affirmed. The employer discharged the claimant for business reasons, but did not establish that the claimant committed work-connected misconduct. As of November 16, 2014 the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can