

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COREY J STEGGALL
Claimant

WORLEY WAREHOUSING INC
Employer

APPEAL NO. 09A-UI-14640-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**Original Claim: 03/22/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge
871 IAC 24.26(21) – Quit or be Fired

STATEMENT OF THE CASE:

The employer appealed a department decision dated September 21, 2009, reference 04, that held the claimant was not discharged for misconduct on August 21, 2009, and that allowed benefits. A telephone hearing was held on October 28, 2009. The claimant participated. The employer elected not to participate in the hearing.

ISSUE:

The issue is whether the claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the claimant and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time warehouse worker from November 3, 2006 to August 28, 2009. The claimant was issued discipline for attendance problems. An employer representative approached the claimant with the proposition that he quit employment with no unemployment protest or be fired. When the claimant declined to quit, he was fired.

An employer representative notified the department it would not participate in the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.26(21) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(21) The claimant was compelled to resign when given the choice of resigning or being discharged. This shall not be considered a voluntary leaving.

The administrative law judge concludes that the claimant was not discharged for misconduct in connection with from employment on August 28, 2009. The employer failed to participate in this hearing and offer evidence of job-disqualifying misconduct. A challenge to quit or be fired is considered a discharge.

DECISION:

The department decision dated September 21, 2009, reference 04, is affirmed. The claimant was not discharged for misconduct on August 28, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw