

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RALPH G NIEMAN JR
Claimant

BLACK HAWK ROOF COMPANY INC
Employer

APPEAL NO: 13A-UI-07449-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/28/13
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 19, 2013, reference 01, that held he voluntarily quit without good cause due to a non-work-related illness or injury on November 17, 2012, and benefits are denied. A telephone hearing was held on July 29, 2013. The claimant, and witness, Kim Schaefer, participated. Tracy Exman, Administrative Assistant, participated for the employer.

ISSUE:

Whether claimant was discharged for misconduct in connection with employment.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The claimant was hired on November 10, 2012, and last worked for the employer as a full-time roofer on November 17. He went to a job site in Alabama with a work crew. After a few days, he had a stomach issue that became so severe he went to a local hospital for examination. He was diagnosed with a gallbladder issue and he had surgery in Iowa City one-month later.

When he went back to the motel, the job site supervisor terminated him from employment after returning from work that day. He left and went back home.

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.

The administrative law judge concludes employer did not establish claimant was discharged for misconduct on November 17, 2012.

It was apparent the employer was surprised by claimant's statement he was fired from the job site. The employer had not talked with the job site supervisor about the termination and she did not have personal knowledge about what happened. Claimant offered a witness that corroborated his statement he was terminated and he did not quit.

DECISION:

The department decision dated June 19, 2013, reference 01, is reversed. The claimant was not discharged for misconduct on November 17, 2012. Benefits are allowed, provided claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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