

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOE P RHOMBERG
Claimant

APPEAL NO. 10A-UI-00315-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HENDERSON TRUCK EQUIPMENT
Employer

OC: 12/06/09
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 30, 2009, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on February 15, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with witnesses, Kathryn Rhomberg and Bob Bathman. No one participated in the hearing on behalf of the employer. Exhibits A and B were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as an installation technician from December 3, 2008, to December 8, 2009.

The employer discharged the claimant on December 8, after he was absent from work on December 7 due to illness and on December 8 because he could not get to work due to adverse winter road conditions. The claimant properly notified the employer each day about his absence.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 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 is qualified to receive unemployment benefits.

DECISION:

The unemployment insurance decision dated December 30, 2009, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs