

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICTOR R VEASEY
Claimant

APPEAL NO: 09A-UI-11603-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE MAYTAG COMPANY
Employer

OC: 11/23/08
Claimant: Appellant (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Victor R. Veasey (claimant) appealed a representative's August 10, 2009 decision (reference 03) that concluded he was not qualified to receive benefits, and the account of The Maytag Company (employer) would not be charged because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 27, 2009. The claimant participated in the hearing. On August 25, the employer's representative, TALX, informed the Appeals Section the employer did not want to participate in the hearing. No one appeared on the employer's behalf at the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 23, 2007. Initially the claimant worked as a full-time assembler. Later he became a utility person. During his employment, the claimant did not have an attendance problem and his job was not in jeopardy prior to July 13, 2009.

On July 13, a team leader told employees, including the claimant, they could leave work early. The claimant punched out early as a team leader told him to do. When the claimant reported to work as scheduled the next day, management talked to him to find out why he left work early the day before.

Although the claimant explained that a team leader told him he could leave work early the day before, the employer told him he should have stayed and checked with another team leader before he left work. The employer discharged the claimant on July 14 for leaving work early the day before.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Even though the claimant left work early on July 13, he had no intention of quitting his employment. The evidence establishes the employer initiated the claimant's employment separation by discharging him on July 14, 2009.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Based on the evidence presented during the hearing, a team leader told the claimant to leave work early on Jul 13, 2009. If the claimant should have stayed or checked with another team leader before he left on July 13, the claimant made an error in judgment. The facts do not establish that he intentionally disregarded the employer's interests when he left work early on July 13.

The employer may have justifiable business reasons for discharging the claimant. The facts do not, however, establish that he committed work-connected misconduct. Therefore as of July 12, 2009, the claimant is qualified to receive benefits.

DECISION:

The representative's August 10, 2009 decision (reference 03) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected

misconduct. As of July 12, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css