

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW O'BRIEN**  
Claimant

**APPEAL NO. 13A-UI-10193-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOWROYD WRIGHT EMPL AGENCY INC**  
Employer

**OC: 08/11/13**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 3, 2013, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on October 2, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer because the person who was listed as the employer's representative was not available at the scheduled time of the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked on a full-time assignment at C.H. Robinson as an indexer from August 5 to August 13, 2013.

The claimant was given permission to leave work early on August 12 when he became sick and unable to work. On August 13, the claimant was sick and unable to work. He had misplaced the phone number for the supervisor at C.H. Robinson so he reported to the jobsite to let the supervisor know that he was not able to work. The supervisor told him that he needed a doctor's statement excusing him from work. The claimant went to the hospital emergency room and was excused from working for two days due to his illness. While he was at the hospital, he received a call from a staffing representative informing him that he was being removed from his assignment at C.H. Robinson and discharged by the employer.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

The employer's representative called in after the hearing concluded and stated that she had a meeting that went long, which was why she missed the call at the scheduled time of the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether the employer has shown good cause to reopen the hearing. I conclude that having a meeting that runs long does not establish good cause to reopen.

The next 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 § 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 was absent from work for legitimate medical reasons and informed the employer about his absences.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated September 3, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css