

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUSTIN D BOYD
Claimant

APPEAL NO: 12A-UI-05205-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

OC: 04/08/12
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a – Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's May 1, 2012 determination (reference 01) that held the claimant eligible to receive benefits and the employer's account subject to charge because his employment separation was for nondisqualifying reasons. The claimant participated in the hearing. Beth Kollbaum and Logan Willis appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment without good cause attributable to the employer, or did the employer discharge him for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in mid-November 2011. He worked as a full-time third shift team leader in the logistics department. Willis supervised him.

During his March 9-10 shift, the claimant received a call that his wife's grandmother had passed away. The claimant talked to the employer and indicated he would be back from the funeral and would return to work on March 11. Although the employer's policy requires employees to talk to their supervisor or a manager, the claimant called and talked to an operator on March 10. He told the operator that he did not know if he would be able to get to back to work on March 11. Personal problems between the claimant and his wife developed. As a result of his personal issues it was difficult for the claimant to return to work on March 11. The claimant does not know if the phone operator gave his message to Willis or anyone else in management.

Even though the work schedule is posted two weeks in advance, the claimant did not report to work or call on March 14. Problems between the claimant and his wife intensified and he did not remember that he was scheduled to work on March 14. The employer previously authorized time off for the claimant to attend military training March 15 through April 1.

On April 2, the claimant called and talked to Kollbaum about his paycheck. She told him he could pick up his paycheck and reminded him that he was scheduled to work on April 2, 3 and 4. The claimant indicated he would be at work as scheduled. The claimant did not report to work on April 2 because he had to report to the base on April 3. His military supervisors did not like him working the night shift before he reported for duty. The claimant had no excuse for failing to notify the employer he was unable to work as scheduled on April 2 because of additional work on the military base.

The claimant called the employer on April 3 around noon. He did not talk to a manager, but again told the operator to let management know he would not be at work on April 3. The claimant did not report to work as scheduled on April 3 or 4. When the claimant did not report to work on April 2, 3 and 4 and management received no information that he had called to notify the employer he was unable to work these shifts, management decided to recommend his termination. Based on the claimant's failure to call or report to work for three consecutive days, the employer completed paperwork to end the claimant's employment and sent it to the corporate office. About a week later, the claimant received a letter from the corporate office informing him that he no longer worked for the employer as of April 4 because the employer considered him to have voluntarily quit his employment.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(1), (2)a. The facts establish the employer initiated the employment separation and discharged the claimant.

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).

On March 10, the claimant became involved in an emotional, personal situation. As a result of personal issues, he failed to properly notify the employer he was unable to work as scheduled on March 11 and 14. Even though the employer talked to him on April 2 and the claimant told the employer he would be at work on April 2, he did not report to work or contact the employer again to report that he was unable to work as scheduled. The claimant's failure to properly notify the employer he was unable to work as scheduled on April 2, 3 and 4 amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect. The employer discharged the claimant for excessive, unexcused absenteeism which in this case constitutes work-connected misconduct. As of April 8, 2012, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits he may have received since April 8, 2012, will be remanded to the Claims Section to determine.

DECISION:

The representative's May 1, 2012 determination (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 8, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver of overpayment of benefits he may have received since April 8, 2012, is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs