

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MAURDELL JACKSON
Claimant

APPEAL NO: 13A-UI-05376-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IAC IOWA CITY LLC
Employer

**OC: 04/14/13
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 2, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. The employer advised the Appeals Section before the scheduled hearing that the employer was not participating in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in February 2011. He worked full time.

In early April 2013 the claimant had to go to Illinois for a custody case. He called the employer and left a message that he wanted to take some emergency vacation time because he was unable to work. The claimant was absent two or three days when he was in Illinois. The claimant did not realize the employer did not approve his request to take emergency vacation time. The employer assessed him a total of 16 attendance points for two days he was not at work when he was in Illinois.

The claimant's last day of work was April 17, 2013. The employer discharged him on April 17 for excessive absenteeism. Before the claimant was absent in early April, he had no knowledge his job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had justifiable business reasons for discharging the claimant. Since the employer did not participate at the hearing, the evidence does indicate the claimant had an attendance problem before April 2013. The evidence shows the claimant tried to get emergency vacation time when he had to go to Illinois for a custody situation. The claimant may have used poor judgment when he incorrectly assumed the employer had granted him emergency time off for his custody situation. The facts do not establish that the claimant committed work-connected misconduct. As of April 14, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's May 2, 2013 determination (reference 01) is reversed. The employer discharged the claimant, but the evidence does not establish that the claimant committed work-connected misconduct. As of April 14, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs