

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHARLES B NICOLLS**  
Claimant

**APPEAL NO. 12A-UI-00561-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AVENTURE STAFFING & PROFESSIONAL**  
Employer

**OC: 11/27/11  
Claimant: Respondent (4)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated January 12, 2012, reference 07, that concluded the claimant was not disqualified for failing to accept work. A telephone hearing was held on February 9, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Kayla Neuhalfen participated in the hearing on behalf of the employer with a witness, Christine Shinall. Exhibit One was admitted into evidence at the hearing. The record was left open for the claimant to provide proof of his wages from his employment with the Marina Inn. He provided proof of wages totaling \$6,256.00 from this employment, which is admitted into evidence as Exhibit A.

**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 for the employer on assignments from January 28, 2011, to June 20, 2011. When he was hired, he signed a statement that he would be considered to have voluntarily quit employment if he did not complete a job assignment.

The claimant was offered and accepted a two-day assignment working as a general laborer for Big Sioux Terminal starting June 24. He overslept and was not going to report to work. He failed to notify the employer that he was not going to be reporting to work. Instead, he reported to the office to pick up his check. When he got to the office, he was asked why he had not reported to work and he explained that he overslept. The staffing associate instructed the claimant that he should still report to work. He decided to report to work but ended up having car problems on the way to the job site. When the staffing assistant found out the claimant had not made it to work, she called the claimant who told her about the car problems and that he was not going to work. The staffing associate informed him that because of the prior problems and what had happened that day, the employer would not be assigning him work again.

The claimant worked at the Marina Inn after his employer ended and was paid wages totaling \$6,256.00 from this employment.

**REASONING AND CONCLUSIONS OF LAW:**

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct until they have earned at least 10 times their weekly benefit amount in subsequent employment. Iowa Code § 96.5-1 and 96.5-2-a.

I conclude the claimant was discharged from employment after failing to report to work as scheduled due to oversleeping and failing to notify the employer that he was not going to be at work. He then agreed to report to work but failed to work due to transportation problems.

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).

The claimant's conduct in missing work due to oversleeping without proper notice to the employer was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. The claimant, however, requalified for benefits based on the wages earned at the Marina Inn. The employer's account is exempt from charge.

The claimant, however, is not currently eligible for unemployment because he was disqualified based on his separation from the Marina Inn.

**DECISION:**

The unemployment insurance decision dated January 12, 2012, reference 07, is modified in favor of the employer. The claimant was discharged for misconduct but he requalified for benefits based on his subsequent employment. He remains disqualified, however, based on his separation from the Marina Inn.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs