

FINDINGS OF FACT:

The employer is a staffing service. The claimant registered to work with the employer on August 10, 2004. The most recent job the employer assigned to the claimant began on March 15, 2005. The claimant traveled about 25 miles, one way, to work at this assignment. The claimant worked 40 hours a week for the employer's business client.

In mid-April 2005, the claimant's transmission went out on his vehicle. The claimant used his parents' car to get to work. As soon as the claimant got back home, his parents used their car to get to work. The employer's client wanted the claimant to work more than 50 hours a week. Until the claimant was able to fix his transmission, he was unable to work more than 40 hours a week. The employer's client needed a person who would work more than 40 hours a week. When the claimant could not work more than 40 hours a week, the client asked the employer to end the claimant's assignment.

On April 22, 2005, the employer informed the claimant he no longer had a job assignment. The employer did not have another job to assign to the claimant. Even though the claimant was able to work full time, the employer told him to contact the employer when he had his transmission repaired. The claimant did not contact the employer again because he went to work for a relative.

The claimant established a claim for unemployment insurance benefits during the week of December 26, 2004. The claimant reopened his claim during the week of August 21, 2005 because he hurt his back and was unable to perform his job duties.

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 §96.5-2-a. An individual who is a temporary employee of a temporary employment firm may be disqualified from receiving unemployment insurance benefits if he does not notify the temporary employment firm within three working days after completing the job assignment in an attempt to obtain another job assignment. To be disqualified from receiving benefits, at the time of hire the employer must advise the individual in writing of the three-day notification rule and that the individual may be disqualified from receiving unemployment insurance benefits if he fails to notify the employer. Iowa Code §96.5-1-j.

The facts establish the client was not satisfied with the claimant being able to work just 40 hours a week. When the claimant could not commit to working overtime, the client ended the claimant's job assignment. The employer did not have another job to assign when the claimant's job assignment ended on April 22, 2005. Under these facts, the employer's client initiated the claimant's employment separation. The facts do not establish that the claimant committed work-connected misconduct.

As of April 22, 2005, the employer did not have another job to assign to the claimant. The unemployment insurance law does disqualify a claimant from receiving benefits under these facts when the claimant is not an active claimant or files weekly claims.

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).

The claimant was not obligated to contact the employer after he repaired his transmission, because he had already accepted other employment. Also, the reasons for the claimant's unemployed status as of April 22 is the focus of this decision, not what the claimant did one or three weeks later. Since the claimant's April 22, 2005 employment separation was for nondisqualifying reasons, the claimant is qualified to receive unemployment insurance benefits as of August 21, 2005.

During the hearing, there was testimony presented that raises the issue of whether the claimant is able to and available for work as of August 21, 2005. Since this was not an issue for the hearing, this issue is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's September 16, 2005 decision (reference 03) is affirmed. The reasons for the claimant's employment separation on April 22, 2005, do not disqualify the claimant from receiving unemployment insurance benefits. As of August 21, 2005, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The issue of whether the claimant is able to and available to work as of August 21 because of a back injury is remanded to the Claims Section to investigate and issue a written decision.

dlw/pjs