

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON O GRIFFEY

Claimant

APPEAL NO. 09A-UI-09804-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

**Original Claim: 06/07/09
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Team Staffing Solutions, Inc. (employer) appealed a representative's July 1, 2009 decision (reference 01) that concluded Jason O. Griffey (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 23, 2009. The claimant did not respond to the hearing notice or participate in the hearing. Michael Black, the director of human resources, appeared on the employer's behalf. During the hearing, Employer Exhibits One, Two, and Three were offered and admitted as evidence. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The employer is a temporary staffing firm. The claimant initially registered to work for the employee's clients in February 2004. The employer assigned the claimant to a job assignment on February 24, 2009. When the claimant started this job, the client had the claimant attend a new employee orientation. Part of the orientation included the claimant receiving information about the client's lockout/tagout procedure. (Employer Exhibit One.) On April 21, 2009, the claimant completed the client's comprehensive training or annual inspection concerning the client's lockout/tagout procedure. (Employer Exhibit Two.) On June 2, 2009, the client informed the employer that on June 1, the claimant failed to follow the client's lockout/tagout procedure by failing to lock a valve or failing to know the process well enough to shut off the valve. Later during his shift, the client observed the claimant sleeping in the control room around 2:30 a.m. On June 2, the client informed the employer that the claimant could no longer work at this assignment. (Employer Exhibit Three.)

The employer talked to the claimant about his failure to use the lockout/tagout procedure. The claimant admitted he had not used the lockout/tagout procedure because he forgot. Although the claimant could not continue working at the same job assignment as of June 2, he was eligible to work for the employer's other clients.

The claimant established a claim for benefits during the week of June 7, 2009.

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).

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 evidence shows the client had justifiable business reasons for ending the claimant's work assignment early. The evidence does not establish that the claimant intentionally failed to follow the client's work rules. He may have been careless or negligent, but his actions do not demonstrate a reckless disregard of the client's or employer's interests. The evidence does not establish that the claimant committed work-connected misconduct. As of June 7, 2009, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant current benefit year, the employer's account will not be charged.

DECISION:

The representative's July 1, 2009 decision (reference 01) is affirmed. The employer ended the claimant's assignment early or discharged him for business reasons that do not constitute work-connected misconduct. As of June 7, 2009, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw