

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD A HILDBRANT**  
Claimant

**APPEAL NO. 12A-UI-00971-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACE INTERNATIONAL INC**  
Employer

**OC: 05/29/11  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated January 24, 2011, reference 05, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 21, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Kim Weaver participated in the hearing on behalf of the employer with a witness, Kathy Stage.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a crew person from August 10, 2011, to December 14, 2011. His supervisors were the manager, Kim Weaver, and shift manager, Kathy Stage. The claimant had been verbally warned about taking excessive breaks by Weaver.

On December 14, 2011, the claimant was scheduled from 5 p.m. to close (which normally was midnight). He suffers from a seizure disorder and began experiencing warning signs of a seizure coming on. After his break, the claimant approached Stage and told her that he was ill and needed to leave. She told him that he could not be replaced and would have to stay. The claimant became upset and cussed at Stage but went back to work. After returning to work for a short time and feeling more ill, he approached Stage a second time and said he had to leave. Stage said she was tired of his nagging and he could go home. The claimant left at about 8 p.m. The employer concluded he had walked off the job and crossed him off the schedule.

The claimant reported to work the next day and discovered his name has been crossed of the schedule. He asked the manager on duty and was told that he had been taken off the schedule for walking out the night before. When he picked his check, Weaver told the claimant that he was considered to have quit when he left work on December 14. Although the employer had other issues regarding the claimant's work performance, the reason for the dismissal was the claimant leaving work on December 14.

The employer's account is not presently chargeable for any benefits paid to the claimant, since it is not a base period employer on the claim,

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. The claimant left work on December 14 due to a legitimate medical problem that could have prevented him from working safely. He notified his supervisor that he needed to leave work. No willful and substantial misconduct has been proven in this case.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated January 24, 2011, reference 05, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw