

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JOHN S MEIS
311 HILL ST #4
EAST DUBUQUE IL 61025-1337

GOODWILL INDUSTRIES
OF NORTHEAST IOWA INC
2540 FALLS AVE
WATERLOO IA 50701

Appeal Number: 06A-UI-04762-CT
OC: 04/09/06 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

John Meis filed an appeal from a representative's decision dated May 1, 2006, reference 01, which denied benefits based on his separation from Goodwill Industries of Northeast Iowa, Inc. (Goodwill). After due notice was issued, a hearing was held by telephone on May 18, 2006. Mr. Meis participated personally and Exhibits A and B were admitted on his behalf. The employer participated by Connie Stroh, Human Resources Director.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Meis began working for Goodwill on August 11, 2005, as a full-time community trainer. He called on January 19 and 20 to report that he would

be absent due to illness. He had the flu. He was then absent on January 23 and 24 but did not contact the employer on either date. He did not call because his telephone was not working. On January 24, a letter was sent to him advising that he no longer had employment.

Mr. Meis went to the emergency room on January 25 and was released to return to work on January 27. He went to the hospital at approximately 1:00 p.m. but did not contact the employer until approximately 3:00 p.m., after the start of his shift. He made the call from a friend's house after he left the hospital. Mr. Meis' failure to contact the employer prior to the start of his shift for consecutive days was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Meis was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Meis was discharged after he failed to report for work or contact the employer for two days. He was then absent a third day but did not call the employer until after the start of his shift.

Mr. Meis contended that he was absent due to the flu and failed to contact the employer because his telephone did not work. He had called in on January 19 and 20 due to the same spell of illness. It seems unusual that a case of flu would last over four days. At any rate, it would seem that by January 23 Mr. Meis would be at least well enough to seek a telephone to use to call the employer. His condition was apparently not debilitating as he did not seek medical treatment until January 25, six days after the illness began. In short, the administrative law judge is not satisfied that Mr. Meis was too ill to leave his home to call the employer to report his absences on both January 23 and January 24.

Mr. Meis was clearly well enough to leave home on May 25. Rather than calling the employer immediately to explain why he had been absent and had not called for the prior two days, he waited until the afternoon of May 25. The administrative law judge believes he could have found a telephone to contact the employer on the morning of May 25. The fact that he waited until 3:00 in the afternoon before calling demonstrates a lack of good faith. It is concluded that the failure to contact the employer to report his absences for three consecutive shifts constituted a substantial disregard of the standards the employer had the right to expect. Accordingly, benefits are denied.

DECISION:

The representative's decision dated May 1, 2006, reference 01, is hereby affirmed. Mr. Meis was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kkf