

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL A SEMPRINI
Claimant

APPEAL NO. 12A-UI-03024-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMBRANDT ENTERPRISES INC
Employer

OC: 11/27/11
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

Michael A. Semprini filed a timely appeal from an unemployment insurance decision dated March 14, 2012, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held April 18, 2012, with Mr. Semprini participating. Human Resources Assistant Pam Winkel participated for the employer, Rembrandt Enterprises, Inc. Employer Exhibit 1 was admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with the employment?

FINDINGS OF FACT:

Michael A. Semprini was employed by Rembrandt Enterprises, Inc. from March 21, 2011, until he was discharged November 23, 2011. He worked full-time as a maintenance technician. He was scheduled to begin his shift at 6:00 p.m. on November 21, 2011. He overslept and contacted his lead worker at 6:10 p.m. Mr. Semprini did not report to work for the rest of his shift. Previously, he had received warnings on November 7, October 12, and August 5, for repeated instances of tardiness. Mr. Semprini overslept on some occasions and was also late because of personal transportation issues.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the employment. It does.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

- a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Excessive unexcused absenteeism, a concept that includes tardiness, is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absence because of matters such as personal transportation and oversleeping are considered to be unexcused because they are matters of personal responsibility. Absence due to illness is excused only if it is properly reported to the employer. See Higgins and 871 IAC 24.32(7). The evidence in the record establishes a pattern of absence due to matters of personal responsibility, culminating with a final incident on November 21, 2011. The evidence is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated March 14, 2012, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw