

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MZEE REHANI**

Claimant

**APPEAL NO: 13A-UI-06611-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PALMER COMPANIES INC**

**PALMER CONSULTING**

Employer

**OC: 05/05/13**

**Claimant: Appellant (1)**

Iowa Code § 96.5-2-a - Discharge for Misconduct  
871 IAC 24.32(7) - Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

Mzee Rehani (claimant) appealed an unemployment insurance decision dated May 31, 2013, reference 01, which held that he was not eligible for unemployment insurance benefits because he was discharged from Palmer Companies, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 16, 2013. The claimant participated in the hearing. The employer participated through Recruiter Orlando Hernandez. This case was heard by Administrative Law Judge Julie Elder. Before a decision could be issued Judge Elder went on an indefinite leave of absence. The case was re-assigned to Administrative Law Judge Susan Ackerman per direction from lead worker Administrative Law Judge Teresa Hillary. Judge Ackerman is hereby issuing a decision based upon the taped recording of the hearing and the exhibits admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time verification of employment specialist from July 9, 2012 through May 6, 2013. He was discharged from employment due to excessive tardiness after being warned. In 2013, the claimant was late on January 28 and 29; February 4, 7, and 26; March 7, 8, 21, 25, and 28; April 9, 10, 12, 17, 19, 23, and 29. There were no dates available for May 2013 but he was discharged after he was an hour and 20 minutes late on May 6, 2013. The claimant admitted he was frequently tardy and admitted he was warned but explained that he shared a vehicle with his fiancé and she often had morning sickness which caused them to be late.

## REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Misconduct is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. 871 IAC 24.32(1).

The employer has the burden to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on May 6, 2013 for excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer. 871 IAC 24.32(7).

The Iowa Supreme Court in the case of *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984) held that excessive unexcused absenteeism is a form of misconduct and includes tardiness, leaving early, etc. The Court in the case of *Harlan v. Iowa Department of Job Service*, 350 N.W.2d 192 (Iowa 1984) held that absences due to matters of "personal responsibility such as transportation problems and oversleeping are considered to be unexcused."

The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of absenteeism, is considered excessive. Benefits are denied.

## DECISION:

The unemployment insurance decision dated May 31, 2013, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because he was discharged from work for misconduct. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css