

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TYELL L MCCLENDON
Claimant

APPEAL NO. 07A-UI-03032-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

**OC: 12/03/06 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Tyell McClendon filed an appeal from a representative's decision dated March 21, 2007, reference 06, which denied benefits based on his separation from Temp Associates. After due notice was issued, a hearing was held on July 16, 2007 in Burlington, Iowa. The employer participated by Jan Windsor, Office Manager. Exhibits One through Four were admitted on the employer's behalf. Mr. McClendon did not appear for the hearing.

ISSUE:

At issue in this matter is whether Mr. McClendon was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. McClendon began working for Temp Associates on August 3, 2006 and was assigned to work full time for Winegard. His last day of work was February 15, 2007. He was then absent without calling in on February 16, 19, and 20. Mr. McClendon was discharged effective February 20, 2007. He had been absent without notice on prior occasions and had received written warnings as a result. Attendance was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

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). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. Mr. McClendon's discharge was prompted by the fact that he was absent for three consecutive days without notice to the employer. All three absences are unexcused as the evidence does not establish any good cause for the failure to contact the employer to report the absences.

Mr. McClendon had received warnings about his attendance. Therefore, he had to have known that his attendance was jeopardizing his continued employment. In spite of the warnings, he was absent for three days without calling in. Three consecutive unexcused absences is sufficient to establish excessive unexcused absenteeism, which is a substantial disregard of the standards the employer had the right to expect. For the reasons stated herein, benefits are denied.

DECISION:

The representative's decision dated March 21, 2007, reference 06, is hereby affirmed. Mr. McClendon 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.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css