

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAFAEL LALIN
Claimant

APPEAL NO: 13A-UI-04619-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY LLC
Employer

OC: 07/01/12
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 15, 2013 determination (reference 04) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Laura Roney, the payroll and human resource assistant, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on July 31, 2012. He worked as a full-time production employee. When the employer hired the claimant, he received a copy of the employer's attendance policy. The employer informs employees they will receive a written warning when they have three absences in a rolling calendar year. When an employee is late for work three times, the employer considers that equivalent to one absence. The next absence after a written warning results in a suspension. The next absence after a suspension results in an employee's discharge for excessive absenteeism.

The claimant received a written warning on December 3, 2012. The claimant was late for work on December 11, 18 and 19. On December 20, the employer gave the claimant a three-day suspension for accumulating his fourth absence (the three tardies). After receiving the suspension, the claimant understood his job was in jeopardy if he missed any more work.

On January 27, 2013, the claimant received authorization to leave work early because of his sister's medical complications. On March 5 and 7, the claimant was late for work. On March 8, the claimant left work shortly after he reported because he became ill at work and was unable to work. The claimant called on March 10 to report he would be absent because he was ill and unable to work. The employer did not have a record that the claimant called on March 11 to report he was still ill and unable to work. When the claimant tried to call on March 11, the

employer's line was busy. Although the claimant called on March 12 to report he was ill, he called about ten minutes before his shift started. The claimant learned on March 12 that the employer no longer considered him an employee because he violated the employer's attendance policy.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

Based on the employer's attendance policy, the employer established justifiable business reasons for discharging the claimant. The employer could have discharged the claimant on March 8. When the claimant left work early on March 8, he violated the employer's attendance policy.

With the exception of one day, the evidence indicates the claimant notified the employer when he was ill and unable to work. The evidence also indicates the claimant was absent in March because he was ill and unable to work. The facts do not establish that the claimant committed work-connected misconduct. As of March 17, 2013, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's April 15, 2013 determination (reference 04) is reversed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of March 17, 2013, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs

National Career Readiness Certificate through the Skilled Iowa Initiative: <http://skillediowa.org/>
Facts About Unemployment Handbook: <http://www.iowaworkforce.org/ui/handbook.htm>
Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>
<http://www.iowaworkforce.org/ui/uiemployers.htm>