

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT H RAVELING
Claimant

APPEAL NO. 09A-UI-00413-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CAREER OPTIONS INC
Employer

**OC: 12/07/08 R: 01
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Career Options, Inc. filed an appeal from a representative's decision dated January 9, 2009, reference 01, which held that no disqualification would be imposed regarding Robert Raveling's separation from employment. After due notice was issued, a hearing was held by telephone on January 27, 2009. Mr. Raveling participated personally and offered additional testimony from Suzanne Raveling. Exhibits A through G were admitted on his behalf. The employer participated by Bonnie Schroeder, Executive Director, and Kristin Nehring, Office/Human Resources Manager.

ISSUE:

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

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. Raveling was employed by Career Options, Inc. from June 30 until December 12, 2008. He was last employed full time in the pickle room. He was discharged because of his attendance.

Mr. Raveling notified the employer on September 12 that he had to leave that day because his National Guard unit was being deployed. When he returned to work on September 22, he was asked for verification that he had been on National Guard duty. He provided the employer with the telephone number of a sergeant to contact to verify his reason for absence. The employer contacted this individual, who agreed to send written documentation. However, such documentation was never received by the employer. The employer did not assess attendance points for the absences between September 12 and September 22.

Mr. Raveling was absent from scheduled work on Sunday, October 5, but did not call the employer. He had been granted October 3 and 4 for funeral leave. It was his understanding that he was not scheduled to return to work until Monday, October 6. Mr. Raveling was absent on October 16 because he had to travel to Camp Dodge to complete paperwork for the National

Guard. He did not give the required 30-minutes notice of the intended absence. He was two hours late reporting to work on October 20 because of a transportation issue. He received a written warning on October 20. He was four hours late on December 5 due to personal business.

The final absences that prompted Mr. Raveling's discharge began on December 8. He presented a doctor's statement verifying the need to be absent December 8 through December 11. He was notified of his discharge on December 12. Attendance was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

Mr. Raveling was discharged by Career Options, Inc. 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). The employer's burden included establishing that the discharge was based on a current act that constituted misconduct within the meaning of the law. An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Absences that are for reasonable cause and are properly reported are considered excused. There must be a current act of unexcused absenteeism to support a disqualification from benefits. See 871 IAC 24.32(8).

In the case at hand, the final absences that triggered Mr. Raveling's discharge were from December 8 through 11. The absences were due to illness and were properly reported. As such, the absences are excused. Inasmuch as the final absences were not acts of misconduct, there was no current act of misconduct in relation to the discharge date. The employer may have had good cause to discharge Mr. Raveling because his absences exceeded its limits. However, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated January 9, 2009, reference 01, is hereby affirmed. Mr. Raveling was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css