

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAJAN DEVAN
Claimant

APPEAL NO. 10A-UI-05918-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOODS INC
Employer

OC: 03/07/10
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated April 13, 2010, reference 01, that held he was discharged for misconduct on March 9, 2010, and benefits are denied. A telephone hearing was held on June 7, 2010. The claimant did not participate. Jim Hubartt, Store Director, participated for the employer. .

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant worked as a full-time pharmacy manager from September 20, 2001 to March 9, 2010. The claimant was scheduled for a forty-four workweek. The store director and pharmacy director had a conference with the claimant about his consistent failure to work a full schedule. The claimant was warned he needed to work the number of hours scheduled each week.

The claimant worked less than nine-hour days on February 23, March 1 and March 5 without any good reason. The pharmacy director learned the claimant was downloading music on the employer computer at work. The claimant was discharged for working less than his scheduled hours and violating employer policy by using the employer computer for personal use.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.32(7) provides:

(7) 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.

The administrative law judge concludes that the employer established misconduct in the discharge of the claimant on March 9, 2010, for failing to work his scheduled hours and violating the employer computer policy.

The employer warned the claimant about working the forty-four hour work week minimum, and he disregarded the warning by working less than the requirement on three separate days without an excusable reason. In addition, the employer discovered after the conference, the claimant violated store policy by personal use of his work computer.

DECISION:

The decision of the representative dated April 13, 2010, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on March 9, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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