

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW J RAYGOR
Claimant

APPEAL NO. 13A-UI-00837-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 12/23/12
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 16, 2013, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 18, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Tamara Thompson. Pamela Kiel participated in the hearing on behalf of the employer with witnesses, Joey Hayes, Bill Moore, and Angie Jensen. Exhibit One (work schedule from March 26 through May 6, 2012) was admitted into evidence.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time for the employer in the produce department from March 17, 2012, to April 16, 2012.

The claimant was scheduled to work on April 12, 2012, from 10:00 a.m. to 6:00 p.m. The claimant was unable to work on April 12 because he had a seizure and was hospitalized. The claimant's mother, Tamara Thompson, called the employer and spoke to a manager regarding her son's hospitalization. The manager assured Thompson that she would inform the claimant's supervisor about what happened. Despite this, the claimant was listed on the schedule as a no-call/no-show for April 12.

The claimant reported to work for his next scheduled shift on April 16 (10:00 a.m. – 6:00 p.m.). He punched in at 9:59 a.m. He was called into a meeting with the produce manager, Bill Moore. Moore told him that he was dismissed based on his no-call/no-show on April 12. The claimant punched out at 10:20 a.m. and left the store. His name was crossed off the schedule for the rest of the week and another employee's name was listed to replace him.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. The claimant and his mother's testimony was more credible than Moore's testimony about what happened. I believe the claimant was absent for medical reasons on April 12 with notice to the employer, but for some reason he was considered a no-call/no-show and was discharged by Moore on April 16. This is consistent with the claimant's being on the schedule to work on April 16 from 10:00 a.m. to 6:00 p.m. but punching out at 10:20 a.m. after meeting with Moore and with the claimant's name being replaced with another employee's after that date.

No willful and substantial misconduct has been proven in this case. The claimant was discharged after an absence due to medical reasons with proper notice to the employer.

DECISION:

The unemployment insurance decision dated January 16, 2013, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/tll