

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMEY R BROADWELL**  
Claimant

**APPEAL NO. 09A-UI-03910-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BAGCRAFTPAPERCON II LLC**  
Employer

**OC: 02/15/09**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Jamey R. Broadwell filed a timely appeal from an unemployment insurance decision dated March 9, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held April 2, 2009 with Mr. Broadwell participating. Operations Manager Jay Walker and Human Resources Manager Tina Gibson participated for the employer, Bagcraftpapercon II.

**ISSUE:**

Was the claimant discharged because of excessive unexcused absenteeism?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Jamey R. Broadwell was employed by Bagcraftpapercon II from April 28, 2000 until he was discharged February 17, 2009. He last worked as a sheeter operator.

Mr. Broadwell was tardy 12 times during the last 12 months of his employment, ending with a tardiness on the day that he was discharged. He had received written warnings during this period of time.

Mr. Broadwell's attendance had declined over the last year because of changes in the start and end times of his shifts and because of overtime.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with his employment. It does.

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.

Excessive unexcused absenteeism, a concept which includes tardiness, is misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984) and 871 IAC 24.32(7). The evidence in the record establishes 12 instances of tardiness in the last year of employment along with written warnings because of the tardiness. This evidence is sufficient to establish excessive unexcused absenteeism. Benefits must be withheld.

Mr. Broadwell raised the question of whether the employer's policy was appropriate given the company's shift schedules. That question is beyond the realm of this administrative law judge. It is the right and duty of each employer to establish those policies that are appropriate for its own operations.

**DECISION:**

The unemployment insurance decision dated March 9, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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