

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL A SKINNER

Claimant

APPEAL NO. 07A-UI-09827-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MATRIX METALS LLC

Employer

**OC: 01/14/07 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Paul Skinner, filed an appeal from a decision dated October 15, 2007, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 6, 2007. The claimant participated on his own behalf. The employer, Matrix Metals, participated by Human Resources Assistant Linda Leffler.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Paul Skinner was employed by Matrix Metals from August 16, 2004 until September 17, 2007, as a full-time production worker. In January 2007 he was discharged for excessive tardiness but reinstated February 1, 2007, at a Step B disciplinary level after a union grievance settlement.

After his reinstatement, he was late to work 11 more times. He received a Step C final written warning July 24, 2007, which advised him the next step would be discharge. The final occurrence was on September 11, 2007, when he was late to work and did not call in prior to the start of the shift to notify the employer. The reason the claimant was tardy on that day, and all the other days, was due to oversleeping.

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(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

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 claimant had been advised his job was in jeopardy as a result of his excessive tardiness. The reason he was chronically late was due to oversleeping. Matters of purely personal consideration, such as oversleeping, are not considered an excused absence. Harlan v. IDJS, 350 N.W.2d 192 (Iowa 1984). The claimant was discharged for excessive absenteeism. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

DECISION:

The representative's decision of October 15, 2007, reference 02, is affirmed. Paul Skinner is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw