

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BOBBY O JACKSON
Claimant

APPEAL NO. 08A-UI-11508-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ONE SOLUTION STAFFING INC
Employer

**OC: 10/19/08 R: 12
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Bobby O. Jackson filed an appeal from a representative's decision dated December 4, 2008, reference 01, which denied benefits based on his separation from One Solution Staffing, Inc. After due notice was issued, a hearing was held by telephone on December 22, 2008. Mr. Jackson participated personally. The employer participated by Steve Young, Owner.

ISSUE:

At issue in this matter is whether Mr. Jackson 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. Jackson began working through One Solution Staffing, Inc. on December 13, 2007 and was working full-time at Jacobsen Warehouse. His assignment was considered a permanent placement. He was discharged because of his attendance.

Mr. Jackson lost his transportation to work on July 27, 2008. His car was totaled while parked. He used a rental car or one belonging to a family member until approximately August 26. He was then absent August 27, 28, and 29 because he did not have transportation. He had been unable to find a reliable vehicle in his price range. He could have taken a bus to work but would have had to get the bus at 5:00 a.m. in order to be at work by 6:00 a.m. Mr. Jackson received a call from One Solution Staffing, Inc. on September 2 advising that he no longer had employment. Mr. Jackson had been verbally warned about his attendance approximately two weeks before his discharge. Attendance was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

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). Mr. Jackson was discharged as a result of his attendance. An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences.

Mr. Jackson received a verbal warning about his attendance two weeks before his discharge. He was absent three consecutive days because he did not have a car to get to and from work. Absences caused by matters of purely personal responsibility, such as transportation, are not excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Given the verbal warning he had received, Mr. Jackson knew or should have known that further absences might result in his discharge. He chose not to use public transportation as a means of getting to work temporarily while he looked for a car to buy.

Three consecutive unexcused absences are sufficient to establish excessive unexcused absenteeism, which is a substantial disregard of the standards an employer has the right to expect. Because Mr. Jackson had been warned about his attendance prior to the three absences, the administrative law judge concludes that disqualifying misconduct has been established and benefits are denied.

DECISION:

The representative's decision dated December 4, 2008, reference 01, is hereby affirmed as to result. Mr. Jackson was discharged for misconduct in connection with his employment. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css