

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEROD W PARROTT
Claimant

APPEAL NO. 12A-UI-02506-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WOLIN ELECTRIC LC
Employer

**OC: 01/01/12
Claimant: Respondent (5)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 29, 2012, reference 01, that concluded the claimant was not disqualified for refusing work. A telephone hearing was held on March 29, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Paul Robertson participated in the hearing on behalf of the employer. The parties agreed that the actual issue in the case was whether the claimant was discharged for misconduct. The parties waived advance notice of the issue. Exhibit 1 was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as an electrical apprentice from September 2007 to December 30, 2011. The employer discharged the claimant for absenteeism because he did not always work the full 40 hours of work available.

The claimant missed work because he often had to care for his elderly mother, who has medical problems due to having a stroke. The claimant properly notified the employer when he had to miss work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such

degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

871 IAC 24.32(7) provides:

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.

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. The claimant's absences were due to legitimate family medical issues and were properly reported.

DECISION:

The unemployment insurance decision dated February 29, 2012, reference 01, is modified with no change in the outcome. The claimant's discharge was not for work-connected misconduct, and 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/kjw