

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SABER A MOUSA**  
Claimant

**APPEAL NO. 11A-EUCU-00292-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**  
Employer

**OC: 05/31/09**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Saber A. Mousa filed a timely appeal from an unemployment insurance decision dated March 14, 2011, reference 03, that disqualified him for benefits. After due notice was issued, a telephone hearing was held April 12, 2011 with Acting Human Resources Manager Aureliano Diaz participating for the employer, Swift Pork Company. Mr. Mousa did not provide a telephone number at which he could be contacted.

**ISSUE:**

Was the claimant discharged for misconduct in connection with his employment?

**FINDINGS OF FACT:**

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Saber A. Mousa was a production worker for Swift Pork Company from July 26, 2010 until he was discharged February 4, 2011. He was absent on February 3, 2011 because he did not have a ride. He had received a warning on February 2, 2011 for accumulating ten points under the employer's attendance policy. Most of the prior points had come from absence due to illness. Nevertheless, Mr. Mousa was tardy on October 4, 2010.

**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 that 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 establishes that many of the claimant's absences were due to personal illness. However, he was tardy on one occasion and absent due to a lack of transportation on another occasion within a space of four months. This is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

**DECISION:**

The unemployment insurance decision dated March 14, 2011, reference 03, 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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