

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FARRAR P SNOW
Claimant

APPEAL NO. 09A-UI-02987-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WINNAVEGAS
Employer

**Original Claim: 01/25/09
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Farrar P. Snow filed a timely appeal from an unemployment insurance decision dated February 19, 2009, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held March 19, 2009, with Mr. Snow participating. Human Resources Receptionist Agnes Thomas and Security Supervisor Leonard Yarborough participated for the employer, Winnavegas. Employer Exhibit One and Claimant Exhibit A were admitted into evidence.

ISSUE:

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

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: Farrar P. Snow was employed by Winnebago Tribe of Nebraska, doing business as Winnavegas, from October 31, 2000, until he was discharged January 28, 2009. He last worked as a security officer. Mr. Snow was absent without contact on January 22, 2009. Although he believed that he was scheduled to be on a disciplinary suspension that day, the suspension was actually for January 23, 24, and 27. He was discharged on January 28, 2009, when he returned from suspension. The suspension had been for his absence on January 20, 2009, when he had overslept. He had also been absent without giving any reason on June 7, 2008, and he had been absent because of oversleeping on August 29, 2008. Mr. Snow had received verbal and written warnings as well as suspensions because of his attendance.

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 is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). The evidence in the record establishes unexcused absences on June 7 and August 29, 2008, and on January 20 and January 22, 2009. Mr. Snow testified that he was absent on January 22, 2009, because he thought he was to be on suspension that day. The testimony of Mr. Yarborough and documentary evidence in the record, however, persuade the administrative law judge that Mr. Snow was notified in writing that the suspension did not include January 22. The administrative law judge concludes that the evidence establishes excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated February 19, 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.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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