

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN J UNLAND

Claimant

APPEAL NO. 12A-UI-05646-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC

Employer

OC: 10/23/11

Claimant: Respondent (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Beef Products, Inc. filed a timely appeal from an unemployment insurance decision dated May 9, 2012, reference 01, that allowed benefits to John J. Unland. After due notice was issued, a telephone hearing was held July 10, 2012 with Jennifer Stubbs participating for the employer. Employer Exhibit One was admitted into evidence. The claimant did not respond to the hearing notice. The administrative law judge takes official notice of agency benefit payment records.

ISSUE:

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

FINDINGS OF FACT:

John J. Unland was employed by Beef Products, Inc. from October 31, 2006 until he was discharged February 21, 2012. He last worked as warehouse coordinator. On February 18, 2012, Mr. Unland left the premises without permission and without clocking out and was gone for an hour and 20 minutes. He later explained that he was meeting with his realtor. On January 12, 2012, Mr. Unland was given a warning for tardiness. He has not requested nor received unemployment insurance benefits since this separation from employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant was discharged for misconduct in connection with his employment.

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 both full day and part day absences is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). A single unexcused absence is insufficient to establish excessive, unexcused absenteeism. See Sallis v. Employment Appeal Board, 437 N.W.2d 895 (Iowa 1989). The evidence in this record establishes two unexcused absences in a month and a half. Given the circumstances of the case, the administrative law judge concludes that excessive, unexcused absenteeism has been established.

DECISION:

The unemployment insurance decision dated May 9, 2012, reference 01, is reversed. 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

pjs/pjs