

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

STEVEN J DORENKAMP
605 S 4TH ST
FOREST CITY IA 50436

WINNEBAGO INDUSTRIES
PO BOX 152
FOREST CITY IA 50436-0152

Appeal Number: 04A-UI-07974-CT
OC: 06/29/03 R: 02
Claimant: Appellant (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Steven Dorenkamp filed an appeal from a representative's decision dated July 12, 2004, reference 01, which denied benefits based on his separation from Winnebago Industries. After due notice was issued, a hearing was held by telephone on August 16, 2004. Mr. Dorenkamp participated personally. The employer participated by Gary McCarthy, Personnel Supervisor. Exhibits One and Two were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Dorenkamp was employed by Winnebago Industries

from April 2, 2001 until June 22, 2004 as a full-time production worker. He was discharged because of his attendance.

Mr. Dorenkamp received verbal warnings about his attendance dated August 13 and December 8, 2003. The warning of December 8 was due to the fact that he failed to give timely notice of the intent to be absent. Mr. Dorenkamp received an additional verbal warning on February 27, 2004 and a written warning on April 1, 2004. He received a written warning and a two-day suspension on May 18. The discharge was based on the fact that he was three hours late on June 22 because he overslept. He was discharged the same day. Attendance was the sole reason for the discharge. Other than June 22, all of his absences were due to illness.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Dorenkamp was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving job insurance benefits if he was excessively absent on an unexcused basis. Absences which are for reasonable cause and which are properly reported to the employer are considered excused absences.

Mr. Dorenkamp had two unexcused absences during the period at issue. One was on December 8, 2003 when he failed to give timely notice of the intent to be absent. The other was on June 22, 2004 when he was three hours late due to oversleeping. The administrative law judge concludes that the two unexcused absences, occurring approximately six months apart, are not sufficient to establish excessive unexcused absenteeism. While the employer may have had good cause to discharge, conduct which might warrant a discharge from employment will not necessarily sustain a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated July 12, 2004, reference 01, is hereby reversed. Mr. Dorenkamp was discharged but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/b