

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RONNIE J OTT
Claimant

APPEAL NO. 10A-UI-01215-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FARLEY'S & SATHERS CANDY CO INC
Employer

**Original Claim: 12/13/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Ronnie J. Ott filed a timely appeal from an unemployment insurance decision dated January 11, 2010, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held March 3, 2010. Mr. Ott did not participate, because he did not provide a telephone number at which he could be contacted. Human Resources Manager Robin Travis participated for the employer, Farley's & Sathers Candy Company, Inc.

ISSUE:

Was the claimant discharged for disqualifying misconduct?

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: Ronnie J. Ott was employed by Farley's & Sathers Candy Company, Inc. from January 26, 2009, until he was discharged December 8, 2009, because of poor attendance. Mr. Ott called the employer in accordance with company policy to say that he would be late for his shift that began in the late evening of December 6, 2009. He then called to say that he would be yet later. However, he never arrived for work. He gave no reason for his tardiness when he contacted the employer. Mr. Ott was absent or tardy for reasons other than illness on November 5, 9, 13, 18, 20, 24, and 25, 2009. During the course of his employment, he had received seven written warnings because of attendance.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for disqualifying misconduct. 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 one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). The evidence in this record establishes eight instances of unexcused absence between November 5 and December 6, 2009. This is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated January 11, 2010, 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

kjw/kjw