

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRYAN A WILLIAMS
Claimant

APPEAL NO. 10A-UI-02306-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CUSTOM ELECTRICAL SERVICES
Employer

OC: 12/27/09
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated February 2, 2010, reference 02 that held the claimant was discharged for misconduct due to excessive unexcused absenteeism on December 28, 2009, and benefits are denied. A telephone hearing was scheduled for March 20, 2010. The claimant and employer did not participate. Official Notice was taken of the fact-finding documents.

ISSUE:

Whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds that: The claimant worked as a full-time employee from November 30, 2009 to December 28. The claimant was issued warnings in December for being late to work, absent from work, and leaving work early without permission. During one 80-hour period of scheduled employment, the claimant worked only 50 hours. The claimant was discharged on December 28 for continuing absences from work.

The claimant and employer failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.32(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The administrative law judge concludes that the employer established misconduct in the discharge of the claimant on December 22, 2009, due to excessive "unexcused" absenteeism.

The employer offered substantial evidence to the department fact-finder that the claimant incurred a number of absences, lateness and leaving work early that resulted in warnings. In order for excessive absenteeism to be considered misconduct, it must be for inexcusable reasons, and the record shows that it was.

DECISION:

The decision of the representative dated February 2, 2010, reference 02, is affirmed. The claimant was discharged for misconduct on December 28, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs