

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON M WANSER**  
Claimant

**APPEAL NO. 09A-UI-01759-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GRAPHIC EDGE INC**  
Employer

**OC: 01/11/09 R: 01  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated January 28, 2009, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on February 24, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Peg Sanders participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a printer from April 4, 2007, to January 7, 2009. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and were subject to discharge for excessive absenteeism. The claimant had been warned about his excessive absences on October 27, 2008, after he had been absent 23 times due to illness, including 15 times when he had left work early due to illness. On November 20, 2008, he received a final written warning after he left work early due to illness on November 17. He was required to work as scheduled for the next 60 days.

On January 6, 2009, the claimant left work several hours before the end of his shift with notice to his supervisor because he was ill and unable to work. His stomach was upset, he had diarrhea, and he had a fever.

On January 7, 2009, the employer discharged the claimant for excessive absenteeism.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

871 IAC 24.32(7) provides that 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. In this case, the claimant's absences including his final absence were due to illness. He properly reported his absences. No willful and substantial misconduct has been proven in this case that would disqualify the claimant from receiving benefits.

**DECISION:**

The unemployment insurance decision dated January 28, 2009, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css