

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MICHAEL D SMITH
Claimant

APPEAL NO. 14A-UI-05643-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABCM CORPORATION
Employer

OC: 04/27/14
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated May 20, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 24, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Deana Armstrong 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 for the employer from December 28, 2012, to April 24, 2014. He started working in the kitchen as a dietary cook in February 2014.

The claimant was absent from work for legitimate illness and with proper notice to the employer and a doctor's excuse from February 10 through 14. He was sick and unable to work on March 29 and April 11 with proper notice of the employer.

The claimant became sick at work on April 22. He left work early that morning due to his illness and notified a supervisor. He was sick and unable to work on April 23. He called in properly to notify the employer that he was going to be absent.

The employer discharged the claimant on April 24 for excessive absences.

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).

The unemployment insurance rules provide: "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." 871 IAC 24.32(7).

No willful and substantial misconduct has been proven in this case. The claimant's absences were due to legitimate illness and were properly reported.

DECISION:

The unemployment insurance decision dated May 20, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css