

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVIDL SIGLER

Claimant

APPEAL NO. 09A-UI-10588-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CBE GROUP INC

Employer

OC: 06/14/09

Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 16, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on August 10, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Mary Phillips participated in the hearing on behalf of the employer with a witness, Allen Hensley. Exhibits One through Four were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time as a collector from September 7, 2007, to June 15, 2009. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer before the start of their shift if they were not able to work as scheduled. The claimant had been warned on April 8, 2009, after he was absent without proper notice on March 11, March 13, and April 4. He missed work due to oversleeping and lack of transportation. He was warned that he could be terminated for similar conduct in the future.

The claimant scheduled himself to work on June 6, from 8:00 a.m. to noon to make up for time missed earlier in the week. He had his children that day, but believed he would be able to find a babysitter. On the afternoon of June 5, the claimant called and spoke to a supervisor to let him know that he was not able to find a babysitter. The supervisor told the claimant that he did not know if he would be able to get word to a supervisor working the next morning and suggested that the claimant call in the next morning to notify a supervisor that he was not coming in. The claimant called at 8:40 a.m.

The claimant also scheduled himself to work on June 12, from 12:30 to 2:00 p.m. to make up for time missed earlier in the week. The claimant called in at about 3:00 p.m. to notify the employer that he could not find a ride to work.

The employer discharged the claimant on June 15, 2009, for excessive unexcused 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:

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 evidence established the claimant was repeatedly absent from work for other than legitimate reasons, and without the proper notice required by the employer.

DECISION:

The unemployment insurance decision dated July 16, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css