

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Gross was employed by Electrolux from January 21, 2002 until September 28, 2005 as a full-time machine operator. He was discharged because of his attendance.

Electrolux employees are expected to call at least 30 minutes before the start of the shift to report absences. Mr. Gross was absent without calling in on August 25, 2005. He missed the first half of his shift without calling in on September 15 and again on September 16. On September 20, he was given a written warning. On September 22, he was given an additional warning, which was labeled "final notice." Mr. Gross was again absent without calling in on September 24. Therefore, he was discharged on September 28, 2005. Attendance was the sole reason for the discharge.

Mr. Gross has received a total of \$373.00 in job insurance benefits since filing his claim effective September 25, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Gross was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Absences that are for reasonable cause and are properly reported are considered excused absences.

Mr. Gross had unexcused absences on August 25, September 15, September 16, and September 25, 2005. The absences are unexcused as they were not reported to the employer. The evidence does not establish that Mr. Gross was prevented from calling the employer to report his absences. In spite of the warnings on September 20 and September 22, Mr. Gross was still absent without calling in on September 25. The four unexcused absences occurred during a period of approximately one month. The administrative law judge considers this excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards an employer has the right to expect and is, therefore, disqualifying misconduct. Accordingly, benefits are denied.

Mr. Gross has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated October 13, 2005, reference 01, is hereby reversed. Mr. Gross was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Gross has been overpaid \$373.00 in job insurance benefits.

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