

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAWRENCE A SAJNA
Claimant

APPEAL NO: 13A-UI-13328-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
Employer

OC: 11/03/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's November 27, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the December 20 hearing. Melissa Hill represented the employer and Jason Mucciarone, a human resource generalist, testified on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 2013. The claimant worked as a full-time cell operator. When the claimant started working, he received a copy of the employer's no-fault attendance policy. (Employer Exhibit Two.)

During his employment, the claimant received warnings or notifications about how many attendance credits he had used. On July 12, the claimant had used four attendance credits and received his first notification or warning. The claimant had called in and reported he was sick on April 1, May 1 and July 11. On July 10, the claimant did not call or report to work. The employer issued a second notice on July 31 after the claimant called in sick on July 30 and did not call or report to work on July 31. On August 1, the claimant received his third notification or warning informing him he had used seven attendance credits and only had two credits left. The claimant notified the employer that he would not be at work that day, August 1. (Employer Exhibit One.)

On September 11, the claimant was four minutes late for work and used a half attendance credit for reporting to work late. On October 21, 2013, the claimant over slept. He notified the

employer he would not be at work. This absence used one attendance credit. (Employer Exhibit One.)

On November 1, the claimant's ride to work did not pick him up. The claimant did not contact the employer because he understood he would be discharged for failing to report to work on time. The claimant used one attendance credit for the November 1 absence that he did not contact the employer about. On November 2, the employer discharged the claimant because he used more than nine attendance credits in a rolling calendar year.

The last week of work, the claimant had problems getting picked up for work. He was in the process of getting a ride from another person. When the claimant was not picked up on November 1, it was too late to call anyone else about giving him a ride to work. The claimant lived about a mile from work.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The most recent absences the claimant had occurred when he overslept and did not go to work on September 21 and on November 1 when the claimant was not picked up for work. Even though the claimant only lived a mile from work, he did not walk to work or call the employer to explain what happened. Since the claimant did not properly report his November 1 absence, the evidence establishes that his excessive absenteeism as defined under the employer's policy amounts to work-connected misconduct. As of November 3, 2013, the claimant is not qualified to receive benefits.

DECISION:

The representatives' November 27, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for excessive absenteeism. The claimant's failure to timely report his absences in addition to the frequency of his absences since March 2013, establish conduct that amounts to work-connected misconduct. As of November 3, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs