

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANDREW J REYNOLDS**  
Claimant

**APPEAL NO: 09A-UI-09584-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JELD-WEN INC**  
Employer

**OC: 05/10/09**  
**Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Jeld-Wen, Inc. (employer) appealed a representative's June 22, 2009 decision (reference 01) that concluded Andrew J. Reynolds (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 21, 2009. The claimant did not respond to the hearing notice or participate in the hearing. Linda Green, a TALX representative, appeared on the employer's behalf. Chris Juni, the human resource manager, and Erick Peterson, the production manager, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer on November 7, 2005. The claimant worked as a full-time laborer. The employer's no-fault attendance policy allows employees to accumulate eight attendance points within a rolling 12-month time. If an employee accumulates nine attendance points within a rolling calendar year, the employer discharges the employee. The employer also gives employees three "well" days. The claimant used his "well" days in January 2009.

On April 6, the claimant left work early because he was ill. When the claimant left work early, he accumulated his eighth attendance point within 12 months. On April 9, the employer gave the claimant a written warning. The warning informed the claimant that if he had another absence before May 1, he would be discharged. On April 22, 2009, the claimant notified the employer he would not be at work.

The April 22 absence left the claimant with nine attendance points within 12 months. The employer did not know why the claimant was absent on April 22. On April 29, the employer discharged the claimant for violating the employer's attendance policy.

The claimant established a claim for benefits during the week of May 10, 2009. The claimant has filed for and received benefits since May 10, 2009.

**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).

After the claimant received the April 9, 2009 final written warning, he knew or should have known his job was in jeopardy if he missed any scheduled work before May 1, 2009. On April 22, the claimant notified the employer he would not be at work. Since the claimant did not participate in the hearing, the evidence does not establish that he was ill or missed work for other reasonable grounds. Therefore, a preponderance of the evidence establishes the claimant intentionally violated the employer's attendance policy and was discharged for work-connected misconduct. As of May 10, 2009, the claimant is not qualified to receive benefits.

The issue of overpayment will be remanded to the Claims Section.

**DECISION:**

The representative's June 22, 2009 decision (reference 01) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 10, 2009. 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. The issue of overpayment or whether the claimant is eligible for a waiver of overpayment is remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css