

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES C WARE
Claimant

APPEAL NO. 10A-UI-00636-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PEARSON GOVERNMENT SOLUTIONS INC
Employer

OC: 12/06/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated January 6, 2010, reference 01 that held the claimant was discharged for no misconduct on December 11, 2009, and benefits are allowed. A telephone hearing was held on February 11, 2010. The claimant participated. The employer did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant worked as a full-time CSR from June 29, 2007 to late November 2009. The claimant was discharged for attendance problems.

The employer representative was not available when called for the hearing.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(7) provides:

(7) 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 administrative law judge concludes that the employer failed to establish misconduct in the discharge of the claimant on November 30, 2009.

The employer failed to participate and establish the claimant's attendance issues were misconduct

DECISION:

The decision of the representative dated January 6, 2010, reference 01, is affirmed. The claimant was not discharged for misconduct in connection with employment on November 30, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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