

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JEROME M DALE
Claimant

APPEAL NO. 14A-UI-10001-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASTERBRAND CABINETS INC
Employer

**OC: 12/29/13
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 15, 2014, reference 03, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on October 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Jodi Schaefer participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a woodworker from October 21, 2013, to August 25, 2014. His normal work schedule was from 6 a.m. to 2:30 p.m. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer 30 minutes before the start of their shift if they were not able to work as scheduled. Employees who receive three attendance warnings are subject to termination. Warnings are given at four points, six points, and eight points. The claimant knew that clocking in even one minute late was counted as late.

The claimant received the following points in 2013 and 2014:

Date	Points Given	Reason for Points	Point Total	Discipline
11/8/13	½	6 minutes late	½	
12/3/13	½	2 minutes late	1	
1/28/14	1	Absent illness	2	
1/28/14	1	Late Call in	3	
2/27/14	1	Absent - Late Call in - no points for absence because he provided doctor's excuse	4	1st Warning 4 points

3/20/14	½	2 minutes late	4½	
5/21/14	½	1 minute late	5	
5/23/14	½	1 minute late	5½	
6/17/14	½	8 minutes late	6	2nd Warning 6 points
7/24/14	½	2 minutes late	6½	
8/20/14	1	Scheduled 8 hours off but only had 4 hours of paid time off to cover it	7½	
8/21/14	½	1 minute late	8	3rd Warning 8 points
8/22/14	½	1 minute late	8½	Termination

The claimant asked his supervisor about what could be done since he did not have paid time off to cover his absence on August 20 and was told that there was nothing that would be done. He had problems swiping his card on August 20 and admits he was late on August 22, 2014.

The employer discharged the claimant on August 25, 2014, because he had received three attendance warnings and was subject to termination under the progressive discipline policy.

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).

The unemployment insurance rules provide: “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.” 871 IAC 24.32(7).

The claimant had a history of excessive absenteeism, including times when he was absent without proper notice. His final attendance occurrence was reporting late for work, for which he acknowledged he had no excuse for. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated September 15, 2014, reference 03, 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/pjs