

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN D MARTIN
Claimant

RACCOON VALLEY PARTNERS LLC
Employer

APPEAL NO. 12A-UI-06651-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/02/11
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated June 1, 2012, reference 10, that held he was discharged for repeated tardiness on May 12, 2012, and benefits are denied. A hearing was held on June 28, 2012. The claimant did not participate. Shelly Ogrosky, Administrative Assistant, participated for the employer.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses, and having considered the evidence in the record, finds that: The claimant worked as a part-time crew member when he was re-hired on November 4, 2011 to May 12, 2012. The claimant received the employer attendance policy.

Claimant was given a final warning for failing to timely call in or reporting to work on time on May 9, 2012. He was 45-minutes late to work on this day. When he was late to work on May 12, he was discharged.

Claimant failed to respond to the hearing notice.

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 employer established misconduct in the discharge of the claimant on May 12, 2012, for excessive "unexcused" tardiness and reporting to work.

The claimant knew his job was in jeopardy due to a final warning and his further attendance infraction constitutes job disqualifying misconduct.

DECISION:

The decision of the representative dated June 1, 2012, reference 10, is affirmed. The claimant was discharged for misconduct in connection with employment on May 12, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs