

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KYLE J MAAA**  
Claimant

**APPEAL NO. 13A-UI-14322-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PROGRESSIVE FOUNDRY INC**  
Employer

**OC: 12/01/13**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Kyle Maaa, filed an appeal from a decision dated December 20, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on January 23, 2014. The claimant participated on his own behalf. The employer, Progressive Foundry, participated by Vice President Darek Van Kirk.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Kyle Maaa was employed by Progressive Foundry from January 25, 2013 until November 27, 2013 as a full-time laborer. He received written warnings regarding attendance on May 7, 24, and June 10, 2013.

Mr. Maaa was aware his job was in jeopardy. He also knew an absence due to illness would not be counted against him if he provided a doctor's excuse. On Monday, November 25, 2013, he called in absent due to a migraine. He did not go to an urgent care unit to get treatment and a doctor's excuse, but he did call his regular physician and got an appointment for Wednesday, November 27, 2013. When he returned to work on November 28, 2013, he was asked if he had a doctor's excuse for the previous day and admitted he did not. He did not have anything in writing to confirm he had a medical appointment the next day.

He was discharged on November 27, 2013, he was discharged for receiving the fourth written warning for attendance.

## 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(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

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 claimant had been advised his job was in jeopardy as a result of his absenteeism. The final incident was due to a properly reported illness but the claimant did not take the extra step of providing a doctor's excuse as required, even though he knew he needed to do so to save his job.

**DECISION:**

The unemployment insurance decision dated December 20, 2013, reference 01, is affirmed. Kyle Maaa is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/css