

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ZACHARIE J PETTIT
Claimant

APPEAL NO. 18A-UI-04354-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RYDER INTEGRATED LOGISTICS INC
Employer

OC: 03/18/18
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Zacharie Pettit (claimant) appealed a representative's April 4, 2018, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits after his separation from employment with Ryder Integrated Logistics (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 2, 2018. The claimant participated personally. The employer was represented by Klaren Bentley, Hearings Representative, and participated by Joseph Stewart, Group Logistics Manager, and Emily Rummelf, Human Resources Generalist. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 6, 2015, as a full-time material handler. He signed for receipt of the employer's handbook on November 21, 2015. The employer's policy states that an employee may be terminated if he accumulates nine attendance points in a rolling twelve-month period. An employee may earn back points with good attendance.

The claimant properly reported his absence on March 22, 25, July 26, September 28, December 7, 2017, January 5, and February 5, 2018, and earned one point for each day. He left work early on October 11 and December 28, 2017, and earned a total of one point. He left work early on January 25, and February 6, 2018, and earned a total of two points. The claimant was tardy for work on May 17, July 5, August 12, 28, October 18, 2017, and March 6, 2018. He accumulated a total of 3.5 attendance points. The claimant's absences were due to personal problems with his wife, sleeping difficulties, medical issues, and a sick one-year-old son. He did not keep records to know how many days he was absent for which reason.

On or about March 1, 2018, the claimant spoke with the group logistics manager about his absenteeism. The group logistics manager said there were options like family medical leave, leave of absence, or the employee assistance program. The claimant said that “none of that stuff was for him”.

The employer issued the claimant attendance warnings on January 18, 2017, July 6, 2017, October 13, 2017, January 30, 2018, and February 20, 2018. The employer notified the claimant in each warning that further infractions could result in termination from employment. On March 10, 2018, the claimant overslept 2.07 hours and had a total of 9.5 points. The employer terminated the claimant on March 15, 2018, for attendance.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term “absenteeism” also encompasses conduct that is more accurately referred to as “tardiness.” An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of unexcused absenteeism, is considered excessive. Benefits are withheld.

DECISION:

The representative's April 4, 2018, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs