

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAMONE V WILDER
Claimant

APPEAL NO. 11A-UI-05837-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

VOLT MANAGEMENT CORP
Employer

OC: 05/02/10
Claimant: Respondent (2)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Volt Management Corporation (Volt) filed an appeal from a representative's decision dated April 22, 2011, reference 05, which held that no disqualification would be imposed regarding Ramone Wilder's separation from employment. After due notice was issued, a hearing was held by telephone on May 26, 2011. The employer participated by Shaundra Caldwell, Recruiter. Mr. Wilder did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Wilder was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Wilder began working for Volt on January 26, 2011 and was assigned to work full time for Corelogic. He was discharged because of his attendance. He was absent for unknown reasons on February 1. He missed time on February 7 and 8 due to illness. On February 12, he left early citing a family emergency. He called to report that he would be absent on February 18 because his girlfriend was experiencing an allergic reaction. He was given a verbal warning at that time.

Mr. Wilder received a final written warning concerning his attendance on March 9. The employer did not have information regarding his attendance between the time of his prior warning on February 18 and the warning of March 9. The decision to discharge was based on the fact that Mr. Wilder was absent without notice on March 18, 19, and 21. He was discharged from his assignment on March 22. He filed an additional claim for job insurance benefits effective March 20, 2011.

REASONING AND CONCLUSIONS OF LAW:

When Mr. Wilder filed his additional claim for job insurance benefits, he was unemployed because he had been discharged from his assignment with Corelogic. An individual who was

discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code § 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from benefits if he was excessively absent on an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and must be properly reported. 871 IAC 24.32(7). The administrative law judge is not bound by an employer's designation of an absence as unexcused.

Mr. Wilder had been warned about his attendance on February 18 and again on March 9, 2011. In spite of the warnings, he was absent without calling in for three days in a row. Because the absences of March 18, 19, and 21 were not properly reported, they are unexcused. Three consecutive unreported absences after warning is sufficient to establish excessive unexcused absenteeism, which is a substantial disregard of the standards an employer has the right to expect. It is concluded, therefore, that disqualifying misconduct has been established and benefits are denied.

No overpayment results from this reversal of the prior allowance as Mr. Wilder has not received benefits on his additional claim filed effective March 20, 2011.

DECISION:

The representative's decision dated April 22, 2011, reference 05, is hereby reversed. Mr. Wilder was discharged on March 22, 2011 for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs