

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**EARNEST L VANCE**  
Claimant

**APPEAL NO: 14A-UI-01703-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS ENTERPRISES INC**  
Employer

**OC: 10/20/13**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's February 7, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the March 7 hearing. Connie Hickerson, an Equifax representative, appeared on the employer's behalf. Courtney Willson, a human resource business partner, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on March 5, 2012, as a temporary employee. On September 30, 2012, the employer hired the claimant as a full-time assistant machine operator. The employer informed the claimant about the employer's no-fault attendance policy. The employer's policy informs employees that if they accumulate 9 attendance occurrences twice in a rolling calendar year they will be discharged. Employees receive notice after they have accumulated 7, 8 and 9 attendance occurrences. On July 17, 2013, the claimant received notice he had accumulated 9 attendance occurrences. The employer reminded him that if received another final warning for accumulating 9 attendance occurrences in a rolling calendar year he would be discharged.

On August 22, 2013, the claimant received notice he again had 8 attendance occurrences. On September 9, the claimant missed a punch and received a half occurrence. The claimant did not have any attendance issues until January 6, 2014. On January 6, the claimant notified the employer he was unable to work. The claimant was ill and unable to work, but he wanted to use a weather day so this absence would be excused. When the claimant called, he did not correctly indicate he was using a weather day. As a result of his January 6 absence, he again accumulated 9 attendance occurrences. The employer discharged the claimant on January 13, 2014, for excessive absenteeism as defined by the employer's policy.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7). Since the employer's attendance policy is a no-fault policy, the employer does not ask why the claimant is absent and accumulated attendance occurrences.

The claimant knew his job was in jeopardy when he received a warning on August 22, 2013, that he again had 8 attendance occurrences. With the exception of a missed punch on September 9, the claimant did not have any attendance issues again until January 6, 2014, when he was ill and unable to work. On January 6, the claimant properly notified the employer that he would not be at work. Since the claimant properly reported his January 6 absence and he was ill and unable to work, the facts do not establish that he intentionally disregarded the employer's interests. The claimant did not commit work-connected misconduct. As of January 12, 2014, the claimant is qualified to receive benefits.

**DECISION:**

The representative's February 7 2014 determination (reference 01) is reversed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of January 12, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account may be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css