

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENNIS R ADAMS
Claimant

APPEAL NO. 10A-UI-14371-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

UNIPARTS OLSEN INC
Employer

OC: 09/26/10
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Dennis Adams filed an appeal from a representative's decision dated October 18, 2010, reference 01, which denied benefits based on his separation from Uniparts Olsen, Inc. After due notice was issued, a hearing was held by telephone on December 2, 2010. Mr. Adams participated personally and offered additional testimony from Jennifer Adams. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Adams 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. Adams began working for Uniparts Olsen, Inc. in April of 1997. He was last employed full time as a machine operator. He was discharged because of his attendance. An individual is subject to discharge if he accumulates 24 attendance points.

Approximately one month prior to his separation, Mr. Adams learned that he had 15 attendance points. On September 20, 2010, he was absent because his son, age 18, had been arrested and he needed to arrange his bond. He was absent September 21 because of his son's court date. His son was taken directly from court to a detention facility. Mr. Adams missed work on September 22 and 23 because he was upset about his son's situation. He was notified of his discharge on September 24. His absences during the week caused him to exceed the allowable attendance points. He had not made prior arrangements to have the time off as vacation or a leave of absence.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 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. Adams had four consecutive unexcused absences beginning September 20, 2010. Even if the administrative law judge were to conclude that the absences were properly reported, consideration must still be given to the reason for the absences. Mr. Adams took off four full days because of his son's arrest., which was a purely personal matter. Absences due to matters of personal responsibility are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Mr. Adams knew where he stood on points as he had received a warning that he was at 15 points approximately one month prior. He did not make any arrangements with the employer to take vacation or leave time beginning September 20 so that he would not accumulate points.

The administrative law judge considers four consecutive unexcused absences to be excessive. It would seemingly not take the entire day to arrange his son's bond on September 20. Since his son had already been removed to a detention facility on September 21, Mr. Adams could have worked on September 22 and 23 but chose not to because he was upset. He had to have known he would accrue attendance points for missing the two days. He may have intended to use vacation time to cover the absences but, the fact remains he did not contact the employer to make arrangements during the four days he was gone. His absences beginning September 20 constituted a substantial disregard of the standards the employer had the right to expect. It is concluded, therefore, that excessive unexcused absenteeism has been established and benefits are denied.

DECISION:

The representative's decision dated October 18, 2010, reference 01, is hereby affirmed. Mr. Adams was discharged by Uniparts Olsen, Inc. for disqualifying misconduct. 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