

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY R VRIEZELAAR**  
Claimant

**APPEAL NO. 07A-UI-07898-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**JELD-WEN INC**  
Employer

**OC: 07/22/07 R: 02**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Jeffrey Vriezelaar, filed an appeal from a decision dated August 14, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on September 4, 2007. The claimant participated on his own behalf. The employer, Jeld-Wen, participated by Coordinating Group Manager Butch Greer, Human Resources Manager Scott Logan, and Production Manager Travis Smith, and was represented by TALX in the person of Edward O'Brien. Exhibits One, Two, Three, and Four were admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Jeffrey Vriezelaar was employed by Jeld-Wen from March 20, 2006 until July 25, 2007, as a full-time production worker. He received a copy of the employer's attendance and progressive disciplinary policies at the time of hire.

Mr. Vriezelaar received written warnings for absenteeism throughout the course of his employment. On June 6, 2007, he received the final written warning, which notified him he would be fired if he had any more unexcused absences prior to July 26, 2007. On July 24, 2007, the claimant called in alleging he was sick. However, he later admitted he was not in fact ill, but thought he could accumulate one more attendance point before he could be fired. He was discharged by Production Manager Travis Smith on July 25, 2007.

## 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. In spite of the warning, he deliberately called in absent on July 24, 2007, not because he was ill but because he thought he still had one more absence point he could accumulate before being discharged. This is an unexcused absence because matters of purely personal consideration, such are not considered an excused absence. Harlan v. IDJS, 350 N.W.2d 192 (Iowa 1984). The claimant is disqualified.

**DECISION:**

The representative's decision of August 14, 2007, reference 01, is affirmed. Jeffrey Vriezelaar is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw