

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GAGE L GRIMM
Claimant

APPEAL NO: 14A-UI-10092-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXIDE TECHNOLOGIES
Employer

OC: 08/31/14
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 19, 2014 determination (reference 01) that qualified claimant to receive benefits and held the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate at the October 16 hearing. Greg Bell, the plant manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, 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 in March 2013. He worked full time on third shift. The claimant received a copy of the employer's no-fault attendance policy that informs employees they will be discharged if they accumulate ten attendance points in a rolling calendar year. The employer's attendance policy informs employees they must call within 30 minutes of a scheduled shift when they are unable to work as scheduled. If an employee does not call within 30 minutes of a scheduled shift, he is assessed one-half point. If an employee calls after a scheduled shift, the employer assesses one attendance point. The claimant received the following points during a 12-month timeframe:

Date of Occurrence	Reason for Absence	Points Assessed
June 17, 2013	Ill	1
July 1, 2013	Not known	1
July 15, 2013	Personal business	1
July 19, 2013	Later reported personal business	1
September 19, 2013	Left work early – ill	1
January 16, 2014	Ill	1
March 3, 2014	Personal business	1
April 14, 15, 16, 2014	Ill with doctor's excuse	1
April 15 - late call	Called after shift started	1
June 4, 2014	Ill but called at 10:39 p.m. – not within 30 minutes of shift	1 plus ½ for late call in

On April 23, 2014, the claimant received a written warning informing him that he had accumulated nine attendance points. After the claimant was absent for his June 4-5 shift, he had accumulated 10.5 points. Even though the claimant was a good employee, the employer discharged him for violating the employer's no-fault attendance policy.

The claimant established a claim for benefits during the week of August 31, 2014. He has filed claims for the weeks ending September 6 through October 18, 2014. He received his maximum weekly benefit amount of \$416 for each of these weeks. Bell did not know what information the employer or the employer's representative presented at the fact-finding interview.

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).

The employer acknowledged that even if the claimant had called in nine minutes earlier on June 4, he would have been discharged because his June 4 absence for illness resulted in his tenth attendance point. The evidence indicates the claimant accumulated several points between June 17 and July 19, 2013. With the exception of this time period, the claimant's absences were primarily for illness. The claimant's most recent absences were for illness. Even though the claimant was a good employee, the employer had to discharge him. The employer strictly applies the no-fault attendance policy.

The employer established business reasons for discharging the claimant, but the evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of August 31, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's September 19, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of August 31, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css