

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER D LAWRENZ
Claimant

APPEAL NO. 10A-UI-03150-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OMAHA STANDARD INC
Employer

OC: 05/03/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 18, 2010, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on April 12, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Kristina Kelley participated in the hearing on behalf of the employer. Exhibits 1-5 were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a welder for the employer from February 28, 2008, to January 21, 2010. He was informed and understood that under the employer's work rules, he could be discharged after 40 tardies. He was warned after 24 tardies on September 28, 2009, and after 32 tardies on October 27, 2009.

The claimant reached 40 tardies when he was 13 minutes late for work on January 19, 2010. He was late because he does not have a driver's license or a car and relies on others for rides to work. His ride was late in picking him up. This had been the reason for his earlier late arrivals at work as well. He was discharged for excessive tardiness on January 21, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such

degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

871 IAC 24.32(7) provides:

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.

Transportation problems are not excused reasons for missing work. The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated February 18, 2010, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs