

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VINCENT R JACKSON**  
Claimant

**MENARD INC**  
Employer

**APPEAL NO: 10A-UI-09952-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/13/10**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism/Tardiness

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated July 9, 2010, reference 01, that held he was discharged for misconduct on June 17, 2009, and benefits are denied. A telephone hearing was held on August 30, 2010. The claimant did not participate. Mark Douglas, Assistant General Manager, and Matthew Bough, Hardware Department Manager, participated for the employer. Employer Exhibits 1 – 6 was received as evidence.

**ISSUE:**

Whether the claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began employment as a part-time stocker on March 17, 2009, and last worked for the employer on June 17, 2009. The claimant received the employer attendance policy. The claimant was issued four written warnings that he had a problem with tardiness. The last warning on May 29 was a suspension with a notice that a further late to work would result in termination. The employer discharged the claimant when he was late to work on June 17.

The claimant failed to respond to the hearing notice.

**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(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 administrative law judge concludes the employer has established that the claimant was discharged for misconduct in connection with employment on June 17, 2009, for repeated tardiness in violation of the company attendance policy.

The claimant knew the employer policy due to prior warnings with a suspension, and his repeated violation for the same offense (tardiness) constitutes job disqualifying misconduct.

**DECISION:**

The department decision dated July 9, 2010, reference 01, is affirmed. The claimant was discharged for misconduct on June 17, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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