

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JASON VAN VELDHUIZEN**  
Claimant

**APPEAL NO. 09A-UI-02235-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ASSOCIATED MILK PRODUCERS INC**  
Employer

**OC: 01/04/09 R: 01  
Claimant: Appellant (5)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 4, 2009, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 4, 2009. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Ann Carpenter participated in the hearing on behalf of the employer with a witness, Trent Griese.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from August 10, 2008, to November 7, 2008. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled. He had been warned about his job performance and tardiness in reporting to work, including a final warning and suspension on October 20.

The claimant was absent from work without notice to the employer on November 10, 2008. As a result, he was discharged by the employer when he reported to work on November 11, 2008.

The appeal hearing concluded at 11:00 a.m. on March 4, 2009. The claimant called the Appeals Bureau at 3:30 p.m. He admitted that he had received the hearing notice and had not called in to provide his telephone number as the hearing notice instructed. He said he had misplaced his hearing notice and was at work at the time of the hearing. He had not requested a postponement of the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether there is good cause to reopen the hearing as required by the unemployment rules in 871 IAC 26.8(3) and (5). The claimant has not shown good cause to reopen the hearing based on misplacing the hearing notice.

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 § 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).

The claimant's violation of a known work rule requiring him to call if he was going to miss work 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 4, 2009, reference 01, is modified with no change in the outcome of the case. 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/kjw