

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TROY HOUSE
Claimant

APPEAL NO. 09A-UI-01549-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALPLA INC
Employer

**OC: 12/28/08 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 21, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on February 19, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Kay Cramer participated in the hearing on behalf of the employer. Exhibits One through Five were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a maintenance technician from July 3, 2006, to December 16, 2008. The claimant 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 and were subject to discharge if they accumulated 6 attendance points. Employees receive a half point for lateness and one point for absences.

The claimant received a final warning regarding his attendance because he was at 5.5 attendance points after being 14 minutes late on December 1 and 10 minutes late on December 2. He had also received points for lateness on July 6, July 7, July 8, August 31, September 1, September 6, and September 21, 2008. In the final warning, the claimant was informed that he needed to have perfect attendance for the next 60 days or he would be discharged.

The claimant was late because he was running behind getting to work on December 16, 2008. He punched in 8 minutes late. The employer discharged him for excessive absenteeism and tardiness on December 16.

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 that 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's repeated tardiness after receiving warnings about his conduct amounts to work-connected misconduct under the law.

DECISION:

The unemployment insurance decision dated January 21, 2009, 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