

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON L WARREN
Claimant

APPEAL NO. 09A-UI-01958-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SARA LEE CORP
Employer

OC: 12/07/08 R: 12
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Jason Warren filed an appeal from a representative's decision dated January 30, 2009, reference 01, which denied benefits based on his separation from Sara Lee Corporation. After due notice was issued, a hearing was held by telephone on March 2, 2009. Mr. Warren participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Mr. Warren was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Warren began working for Sara Lee in November of 2007 and was a full-time production worker. He last worked on or about July 20, 2008. He was given permission to have July 21 off because his girlfriend was ill. He was absent but did not call the employer on July 22. He went to Chicago on July 22 because his grandmother was ill. Mr. Warren's supervisor contacted him on July 23 to ask if he would be at work the following day and Mr. Warren indicated he was not sure.

Mr. Warren was back from Chicago on July 24 but did not report for his 6:00 p.m. shift or contact the employer. He was also absent without notice on July 25. He received his check in the mail on July 28. He also heard from another employee that he had been discharged. Therefore, he did not report for work or call on July 28. He did not confirm his status until July 29.

REASONING AND CONCLUSIONS OF LAW:

Mr. Warren was discharged by Sara Lee. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. Mr. Warren became separated from Sara Lee because he was absent at least three consecutive days without notice to the employer. He did not call or report to work

on July 24, 25, or 28. Prior to that he had been absent without notice on July 22. An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and it must be properly reported. 871 IAC 24.32(7).

The evidence of record does not establish any good cause for Mr. Warren's failure to call the employer when he was going to be absent. Although he may have had good reasons for being absent on July 22, 24, 25, and 28, the absences are all unexcused because they were not properly reported to the employer. The administrative law judge considers four unexcused absences during a one-week period of time to be excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards an employer has the right to expect and is, therefore, misconduct within the meaning of the law. As such, benefits are denied.

DECISION:

The representative's decision dated January 30, 2009, reference 01, is hereby affirmed. Mr. Warren was discharged by Sara Lee for misconduct in connection with his employment. Benefits are withheld until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs