

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARCO CALOCA-PARRA**  
Claimant

**APPEAL NO. 07A-UI-06629-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HOME PLASTICS INC**  
Employer

**OC: 06/10/07 R: 02  
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated June 28, 2007, reference 01, that concluded the claimant was discharged for work-connected misconduct. A telephone hearing was held on July 23, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Alla Mintzer-Zaprudsky participated in the hearing on behalf of the employer with witnesses, Marlene Siegel and Bud Warner.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a press and extruding department helper from July 21, 2005, to June 5, 2007. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify president of the company, Marlene Siegel, if they were not able to work as scheduled.

On May 30, 2007, the claimant received a final warning after he had been absent from work without proper notice to the employer on May 17, 24, and 29, 2007. He was warned that if he missed any additional days of work, he would be discharged. The claimant had been instructed several times about the requirement of calling Siegel if he was going to be absent.

The claimant was absent from work due to transportation problems on June 6, 2007. He did not properly inform Siegel before the start of his shift that he was going to be absent from work. Siegel then decided that the claimant would be terminated when he reported to work on June 7, 2007.

The claimant did not report to work on June 7, 2007, due to medical problems that required hospitalization. When he contacted the employer on June 8, 2007, he was informed that his employment was terminated. The employer did not consider his absences after June 6 in the decision to discharge him. He was discharged due to his absence on June 6 because he had received a final warning on May 30 after missing several days of work in May.

**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.

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(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I do not believe the claimant's testimony that he called Siegel on June 6, 2007. The claimant's violation of a known work rule that required him to call Siegel when he missed 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 June 28, 2007, 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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