

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DENNIS J WITTE
Claimant

JELD-WEN INC
Employer

APPEAL 17A-UI-10541-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/10/17
Claimant: Respondent (4)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(2)a – Discharge for Misconduct – Requalification
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

Jeld-Wen, Inc. (employer) filed an appeal from the October 6, 2017, reference 01, unemployment insurance decision that allowed benefits based upon the determination Dennis J. Witte (claimant) was not discharged for deliberate or willful misconduct. The parties were properly notified about the hearing. A telephone hearing was held on November 1, 2017. The claimant did not respond to the hearing notice and did not participate. The employer participated through Human Resources Manager Mark Shaw. Department's Exhibit D1 was admitted into the record with no objection. Official notice was taken of the administrative record, specifically the claimant's database readout (DBRO) and wage record.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?

Has the claimant requalified for benefits since the separation from this employer?

Has the claimant been overpaid unemployment insurance benefits and, if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a Production Worker beginning on January 23, 2017, and was separated from employment on February 27, 2017, when he was discharged. The employer has an attendance policy that allows six points before termination. Employees receive a step one warning at three and a half points and a step two warning at five and a half points. The employer also has a policy that three no-call/no-show absences will result in termination.

The claimant received his step one warning on February 13, 2017 after missing five days of work. He notified the employer of his absences. One absence was related to illness. The claimant missed the other days due to family issues, car problems, or for reasons he did not disclose to the employer. The claimant missed work on February 17, 20, and 22. He notified the employer of the absences but did not give reasons for his absence. The claimant was then a no-call/no-show on February 23, 24, and 27. He was then discharged for three no-call/no-show absences.

The claimant filed his claim for benefits effective September 10, 2017 and his weekly benefit amount is \$455.00. The administrative record reflects that since the separation from this employment claimant has worked in and been paid insured wages of at least ten times his weekly benefit amount.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for reasons related to job misconduct but has since requalified for benefits.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

The claimant's separation is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall not be charged. As benefits are allowed, the issue of overpayment is moot.

DECISION:

The October 6, 2017, reference 01, unemployment insurance decision is modified in favor of the appellant. The claimant was discharged from employment for reasons related to job misconduct, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The issue of overpayment is moot. The account of the employer shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn