

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EMMANUEL J GALINDO
Claimant

APPEAL NO. 10A-UI-01466-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

REMBRANDT ENTERPRISES INC
Employer

OC: 01/03/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated January 22, 2010, reference 01, that held he was discharged for misconduct due to excessive unexcused absenteeism on December 1, 2009, and benefits are denied. A telephone hearing was held on March 10, 2010. The claimant did not participate. Sally Brecher, HR Manager, participated for the employer.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant began full-time work on January 16, 2009, and last worked for the employer as a yellow dryer operator on November 23, 2009. The claimant was issued a final warning for excessive absenteeism on August 20, 2009 with a statement that a further incident would result in termination. The claimant was late to work three hours on November 23 without any explanation (after being called by his supervisor), and he was discharged from employment.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF 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(7) provides:

(7) Excessive unexcused absenteeism. 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 administrative law judge concludes that the employer has established the claimant was discharged for misconduct due to excessive unexcused absenteeism on November 23, 2009.

The employer issued a final warning to the claimant for excessive unexcused absenteeism with an admonition a further incident would mean termination. The claimant was excessively late to work on November 23rd without explanation and terminated.

DECISION:

The decision of the representative dated January 22, 2010, reference 01, is affirmed. The claimant was discharged for misconduct on November 23, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs