

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

FRANK CARMENATE Claimant KATECHO INC Employer	68-0157 (9-06) - 3091078 - EI APPEAL NO: 14A-UI-10615-DWT ADMINISTRATIVE LAW JUDGE DECISION OC: 09/14/14 Claimant: Appellant (2)
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Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 3, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the October 30 hearing. Chris McGuire, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in October 2012. He worked as a full-time machine operator. The employer's written no-fault attendance policy informs employees they will be discharged if they accumulate seven points in a rolling six-month time frame. The claimant understood the employer's attendance policy.

Recently, the claimant received the following attendance points.

Date of occurrence	Reason	Points
December 20, 2013		1
January 19, 2014		1
March 14	Left work sick	1
March 27	Sick	1
May 17		1
June 7		½
June 14	Daughter's birthday	1
June 2019	Point rolled off	-1
July 19		½
July 19	Point rolled off	-1
August 9		½
September 11	Court	1
September 12	Police called claimant had to go to his residence – it had been burglarized	1

The claimant received a written warning on August 11 informing him that he had accumulated 5.5 attendance points. The claimant understood he would be discharged if he accumulated 7 points in six months. The claimant forgot he had to go to court on September 11 and did not contact the employer 24 hours in advance to have this absence excused. The claimant missed two hours and 20 minutes of work on September 11. The employer gives employee one point for an absence when an employee misses more than two hours of work.

On September 12, the claimant was at work when he received a call from the police department asking him go to his residence because it had been burglarized. The claimant missed about 3.5 hours of work on September 12. He had to wait for the police to take finger prints at his home and investigate the burglary.

The employer strictly applies the attendance policy. After the claimant left work on September 12 he had accumulated 7.5 attendance points within six months. The employer discharged the claimant on September 16 for accumulating too many attendance points.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7)

The employer discharged the claimant for violating its attendance policy. On September 12, the claimant was at work when he received unexpected calls from the police department that his home had been burglarized and he needed to go home for the police to investigate this matter. The evidence does not establish that the claimant intentionally disregarded the employer's interest. Instead, he was absent part of the day on September 12, 2014, for other reasonable grounds. The claimant did not commit work-connected misconduct. As of September 14, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's October 3, 2014 determination (reference 01) is reversed. In accordance with the attendance policy, the employer discharged claimant for business reasons. The claimant did not commit work-connected misconduct. Therefore, as of September 14, 2014, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css