

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MATTHEW D POWERS**

Claimant

**APPEAL NO: 14A-UI-10365-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES MOINES REGIONAL TRANSIT AUTH**

Employer

**OC: 09/07/14**

**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 29, 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 27 hearing in Des Moines. The employer did not appear for the hearing. 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 December 2010. Before the claimant's employment ended, he worked as a full-time bus driver. The claimant understood the employer's written attendance was a no-fault policy and if an employee was late for work seven times during a rolling calendar year, the employee could be discharged.

In August 2014, the claimant received a final warning for being late too many times. He understood the next time he was late for work, he could be discharged. In an attempt to make sure he reported to work on time, the claimant started double checking his schedule and set two alarm clocks. The claimant overslept in late August 2014. He called the employer to report he would be at work, but would be late. The employer told him not to come to work. Since the claimant had called, he understood the employer would consider him late the day he overslept. The point the claimant received when he overslept resulted in another attendance point.

The claimant continued working until September 12. The employer informed him on September 12 that he was discharged for violating the employer's attendance policy, accumulating too many attendance incidents for reporting to work late.

## 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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer followed its attendance policy and discharged the claimant for being late too many times during a rolling calendar year. The employer established business reasons for discharging the claimant. Based on the evidence presented at the hearing, the claimant did not commit work-connected misconduct. As of September 7, 2014, the claimant is qualified to receive benefits. The employer's account is subject to charged.

## DECISION:

The representative's September 29, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. As of September 7, 2014, the claimant is qualified to receive benefits. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs