

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW D BUFORD
Claimant

APPEAL NO: 12A-UI-06696-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 05/13/12
Claimant: Appellant (1)

Iowa Code § 96.5(2) - Discharge

STATEMENT OF THE CASE:

The claimant appealed a representative's May 31, 2012 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 in the hearing. Dzamal Gricic, a human resource clerk, 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 not 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 August 2008. He worked full-time. The claimant's last actual work was February 14, 2012. He was on an approved leave of absence January 30 through February 13. After he worked on February 14, his leave of absence was extended to March 14, 2012.

The claimant did not report to work March 14 through 23. The claimant understood that if he was unable to work, the employer required employees to notify the employer 30 minutes before a scheduled shift. On one of these days, the claimant called the employer eight minutes after his shift started. The claimant understood he received three points for failing to properly notify the employer he was unable to work. As a result of the three points, the claimant also understood he violated the employer's attendance policy and would be discharged. The employer set up a meeting to talk to the claimant about his attendance, but the claimant did not go to the meeting or request another day to meet with the employer. On March 27, the employer no longer considered the claimant an employee, because he violated the employer's attendance policy by having excessive, unexcused absenteeism.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if 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 evidence indicates the claimant failed to properly notify the employer he was still ill and unable to work after his leave was over on March 14. The claimant also understood his job was in jeopardy because of his accumulated attendance points. Even when the employer attempted to meet with the claimant, he failed to take reasonable steps to go to the meeting or make arrangements for another meeting. The claimant's absences March 15 through 23 amount to excessive, unexcused absenteeism. The employer discharged him for reasons constituting work-connected misconduct. As of May 13, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's May 31, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of May 13, 2012, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw