

Equipment Company from July 12, 2004 until he was discharged September 14, 2005. He last worked as a fire alarm helper. Mr. Simpson was absent without contact on September 13, 2005. He was absent on September 12, 2005 because he had injured his arm moving a dresser at his residence. He left a message for his supervisor, Jeff Robinson, advising that he would not be at work that day. He did not say that he would be absent on the September 13. When Mr. Robinson found the message, he called Mr. Simpson's residence. He was told that Mr. Simpson was in the shower. He left a message for Mr. Simpson to call him back. Mr. Simpson did not do so.

Mr. Simpson was tardy on August 26, August 29 and August 30, 2005 for personal reasons. He was also tardy on August 1 and August 2, 2005 due to the hospitalization of his son after a stabbing. Mr. Simpson had received disciplinary reports on four occasions between April 26 and August 30. Company policy requires daily contact by an employee during an extended absence.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for disqualifying misconduct. It does.

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.

Excessive unexcused absenteeism, a concept which includes tardiness, is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absence due to medical conditions are excused if, and only if, they are properly reported to the employer. See Higgins and 871 IAC 24.32(7).

Although Mr. Simpson testified that his message to Mr. Robinson on September 12 put the latter on notice that he would not work on September 13, Mr. Robinson's testimony contradicted that statement. Furthermore, the evidence establishes that company policy requires daily contact when an individual is going to be absent. For this reason, the administrative law judge concludes that the final absence was unexcused. Leaving aside the September 12 absence and the tardiness on August 1 and August 2, 2005 caused by the hospitalization of the claimant's son, the evidence establishes four unexcused absences in less than five months, absences which were accompanied by five disciplinary reports. This evidence is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated October 3, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

dj/kjw