

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JOSE E SANCHEZ QUINTERO**  
Claimant

**WEST LIBERTY FOODS LLC**  
Employer

**APPEAL 19A-UI-07181-DG-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/11/19**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Admin. Code r. 871-24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated September 5, 2019, (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 2, 2019. Claimant participated personally with the assistance of a Spanish interpreter. Employer participated by Monica Dyar, Human Resources Supervisor. Employer's Exhibits 1-3 were admitted into evidence.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 12, 2019. Employer discharged claimant on July 18, 2019, because claimant violated employer's three-day no-call/no-show policy.

Claimant began working for employer as a full-time machine operator on November 2, 2015. On July 13, 2019 claimant called into work and left a message stating that he would not be into work on that date because he had a sick family member he was assisting. Claimant called into work at least two hours prior to his shift. That absence was properly reported, and it was excused by the employer.

Claimant was scheduled to work Monday July 15, 2019 through July 20, 2019. Claimant did not call into work or show up at work on July 15, 2019, July 16, 2019, and July 17, 2019. Employer tried to contact claimant on his cell phone, but it could not reach him. Employer has a three-day no-call/no-show policy. That policy states that employees have to call into work Two hours prior to the beginning of their shift each day if they cannot come into work. It also states that failure to call into work and show up at work for three consecutive scheduled days will be considered a voluntary quit from the employment. Claimant was given a copy of that policy in Spanish when he began working for employer.

Employer reviewed its attendance policy on July 18, 2019 and decided to terminate claimant's employment on that date for violating its three-day no-call/no-show policy. Employer noted that claimant did not make a request for family leave while he was out of town visiting his sick mother. Claimant did not have phone service for several days when he was traveling in Mexico. Claimant was notified that his employment had been terminated when he returned to Iowa on July 23, 2019.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment due to job-related misconduct.

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.

Iowa Admin. Code r. 871-24.32(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.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

**DECISION:**

The September 5, 2019, (reference 01) decision is affirmed. Claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Duane L. Golden  
Administrative Law Judge

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Decision Dated and Mailed

dlg/scn