

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARK E PLOUFFE**

Claimant

**APPEAL NO. 07A-UI-04036-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COOPER MANUFACTURING COMPANY**

Employer

**OC: 03/25/07 R: 02  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Mark Plouffe filed an appeal from a representative's decision dated April 9, 2007, reference 01, which denied benefits based on his separation from Cooper Manufacturing Company (Cooper). After due notice was issued, a hearing was held by telephone on May 7, 2007. Mr. Plouffe participated personally. The employer participated by Bernie Johnston, Plant Manager, and John Crupi, Human Resources Manager.

**ISSUE:**

At issue in this matter is whether Mr. Plouffe was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Plouffe was employed by Cooper from July 23, 1990 until February 26, 2007. He was employed full time as a tool and die maker. He was discharged because of his attendance.

All of Mr. Plouffe's absences were timely reported and all were due to illness. He received a verbal warning on May 30 and a written warning on July 7, 2006. He was suspended on September 5, 2006 because of his attendance. The final absences that prompted the discharge were on February 21, 22, and 23, 2007. Mr. Plouffe called on February 21 and left a voice message that he wanted to use his remaining vacation time for that date. He had been notified on August 28, 2006 that he had to speak directly to a supervisor to request vacation time. Because he did not speak directly to a supervisor to request to use vacation on February 21, the absence was considered unexcused.

Mr. Plouffe called to report that he would be absent due to illness on February 22 and 23. When he returned to work on February 26, he presented doctor's statements for February 21, 22, and 23. He saw the doctor on all three dates but did not receive treatment on February 22. Mr. Plouffe was not allowed to continue the employment after February 22, because his

absences exceeded the employer's standards. Attendance was the sole reason for the discharge.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences.

All of Mr. Plouffe's absences are excused, as they were for reasonable cause, illness, and were timely reported to the employer. He did not speak directly to a supervisor to request to use vacation time on February 21. However, the fact remains that the absence was due to illness as verified by the doctor. Mr. Plouffe would have been off work that day regardless of whether the employer allowed him to use vacation time to cover a portion of the time he was gone. He was not making a request to take vacation, only to have a portion of his sick day covered by vacation time for pay purposes. At most, his actions may have been an isolated, good-faith error in judgment.

The evidence failed to establish that Mr. Plouffe was excessively absent on an unexcused basis. The administrative law judge is not bound by an employer's designation of an absence as "unexcused." Excused absences may not form the basis of a misconduct disqualification, regardless of how excessive. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). Inasmuch as the employer has failed to establish disqualifying misconduct, benefits are allowed.

**DECISION:**

The representative's decision dated April 9, 2007, reference 01, is hereby reversed. Mr. Plouffe was discharged by Cooper but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw