

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID E THOMPSON
Claimant

APPEAL NO. 09A-UI-03914-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

RGIS LLC
Employer

OC: 02/01/09
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

RGIS, LLC filed a timely appeal from an unemployment insurance decision dated March 5, 2009, reference 03, that allowed benefits to David E. Thompson. Due notice was issued for a telephone hearing to be held April 2, 2009. Mr. Thompson did not respond to the notice. The employer provided the name and telephone number of a witness. When that number was called by the administrative law judge at the time of the hearing, the witness could not be found in the employer's automated phone tree. After waiting over 40 minutes and receiving no contact from the employer, the administrative law judge closed the record. This decision is based on information in the administrative file.

ISSUE:

Was the claimant discharged for disqualifying misconduct?

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: David E. Thompson was employed by Retail Grocery Inventory Services (RGIS) from August 21, 2008 until he was discharged February 3, 2009. Mr. Thompson was absent without contact on January 27, 2009.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for disqualifying misconduct. It does not.

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 is misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). On the other hand, a single unexcused absence is not sufficient to establish excessive unexcused absenteeism. See Sallis v. Employment Appeal Board, 437 N.W.2d 895 (Iowa 1989). Since the record establishes a single unexcused absence, the administrative law judge concludes that disqualifying misconduct has not been established. Benefits are allowed.

DECISION:

The unemployment insurance decision dated March 5, 2009, reference 03, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs