

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RODERECO R CARROLL
Claimant

APPEAL NO. 06A-UI-11478-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SEDONA STAFFING
Employer

**OC: 10/15/06 R: 03
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Rodereco Carroll filed an appeal from a representative's decision dated November 17, 2006, reference 02, which denied benefits based on his separation from Sedona Staffing. After due notice was issued, a hearing was held by telephone on December 14, 2006. Mr. Carroll participated personally and offered additional testimony from Lynne Weidler. Exhibit A was admitted on Mr. Carroll's behalf. The employer participated by Bryan Burton, Manager, and Sarah Schneck, Risk Management Assistant.

ISSUE:

At issue in this matter is whether Mr. Carroll 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. Carroll's last period of employment with Sedona Staffing began May 22, 2006. He was assigned to work full-time hours at Bertch Cabinet Manufacturing. He worked a shift that began at 10:30 p.m. and ended at 6:30 a.m. the following day. On September 26, he left work early due to illness. On September 27, Mr. Carroll called to report that he was ill but could not get in to see a doctor until the following Tuesday. He had already made arrangements to be gone on October 1 because of his daughter's wedding.

On October 2, Sedona Staffing left a message for Mr. Carroll indicating he was not to return to the assignment. He called on October 3 to inquire about further work. He was offered an assignment with Metokote Corporation and initially accepted it. He notified the employer the same day that he would be unable to accept because he could not perform the repetitive work required in the job. On October 6, he brought in medical documentation of his illness the prior week.

REASONING AND CONCLUSIONS OF LAW:

Mr. Carroll is unemployed because he was released from his assignment with Bertch Cabinet Manufacturing. The administrative law judge concludes that the separation should be considered a discharge. 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). Mr. Carroll was discharged because of his attendance.

Mr. Carroll notified the employer on September 27 that he was ill and would not be at work. He indicated he could not see a doctor until Tuesday. The reasonable interpretation of his statement is that he would not be at work until seen by the doctor on Tuesday, October 2. He was released from the assignment on October 2, before he could attempt to return to work. Because Mr. Carroll gave notice of his intended absences and because they were due to illness, they are excused. Excused absences may not form the basis of a misconduct disqualification, regardless of how excessive.

For the reasons cited herein, the administrative law judge concludes that Mr. Carroll was separated from employment for no disqualifying reason. It is true that he refused an offer of work on October 3. However, he did not have a claim for job insurance benefits on file at the time of the refusal. His claim was filed effective October 15, 2006. Therefore, the refusal cannot be used as a basis for disqualification from benefits. See 871 IAC 24.24(8). For the above reasons, benefits are allowed.

DECISION:

The representative's decision dated November 17, 2006, reference 02, is hereby reversed. Mr. Carroll was separated from employment for no disqualifying reason. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw