

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT A LEE
Claimant

PACKAGING CORPORATION OF AMERICA
Employer

APPEAL 15A-UI-07332-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/15
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 18, 2015, (reference 01) unemployment insurance decision that denied benefits based upon misconduct. The parties were properly notified about the hearing. A telephone hearing was held on July 29, 2015. Claimant participated personally and through witness Vicki Lee. Employer did not participate.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a machine assistant/utility worker from June 26, 2006, and was separated from employment on June 5, 2015, when he was terminated.

Claimant was scheduled to work at 10 p.m. on June 4, 2015. However, claimant was arrested and incarcerated earlier that afternoon. Claimant's wife called his employer and requested that claimant be allowed to take emergency vacation time. Employer did not respond favorably to her request. Claimant's friend, who also worked for employer, then called employer and offered to work for claimant that night. Employer declined as claimant's friend was not as qualified as claimant to run the particular machine on which he worked. Employer considered claimant's absence unexcused. Claimant's June 4, 2015, absence put him over the points allowed by employer for absences. Thus, employer terminated claimant on June 5, 2015.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

The determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

An employer is entitled to expect its employees to report to work as scheduled. Claimant was aware of the points he had accumulated for absences. He was aware his final absence could cause him to exceed the points allowed. Claimant's attempt to notify his employer of his absence and find a replacement are admirable. However, the fact remains that his absence on June 4, 2015, was unexcused. The final absence, in combination with the claimant's history of unexcused absenteeism, is considered excessive. Benefits are withheld.

DECISION:

The June 18, 2015, (reference 01), decision is affirmed. The 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.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

Decision Dated and Mailed

cal/pjs