

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

QUOC ANH TRAN
Claimant

APPEAL NO: 10A-UI-13818-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEEF PRODUCTS INC
Employer

OC: 09/05/10
Claimant: Appellant (2)

Section 96.5-2-a- Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 4, 2010 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated in the hearing. Rick Wood, the human resource manager, appeared on the employer's behalf. Lan Nguyen interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in May 2009. He worked as a full-time employee. The claimant knew the employer assesses attendance points when an employee does not work as scheduled. When an employee has 14 attendance points in a rolling calendar year, the employer discharges the employee for violating the employer's attendance policy or for being excessively absent.

The claimant received a warning on August 9, 2010, that he had accumulated 13 attendance points. The claimant had accumulated his points as follows:

November 27, 2009	reported to work late	1 point
April 19, 2010	transportation – car not working	3 points
May 9, 2010	no call, no show - too ill to call	3 points
June 30, 2010	transportation – car not working	3 points
July 8, 2010	called in - ill	1 point
July 30, 2010	called in – ill	1 point
August 9, 2010,	called in – ill and went to hospital	1 point

On September 2, the claimant notified the employer he was ill and unable to work. When the claimant reported to work on September 6, the employer discharged him because he had

accumulated 14 attendance points within a year. Even if the claimant had brought the employer's a doctor's statement verifying the claimant had been ill, he still would have received his 14th attendance point.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The employer discharged the claimant for business reasons – violating the employer's attendance policy. The claimant was excessively absent in accordance with the employer's attendance policy. For unemployment insurance purposes, the claimant established that he did not intentionally disregard the employer's interests. He usually notified the employer when he was unable to work. The law specifically states that when a claimant is ill and unable to work after properly reporting his absence, he has not committed work-connected misconduct. As of September 5, 2010, the claimant is qualified to receive benefits.

DECISION:

The representatives' October 4, 2010 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. Therefore, as of September 5, 2010, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css