

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW N HYLTON
Claimant

APPEAL NO. 09A-UI-02627-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERE & CO (01-R) WATERLOO WORKS
Employer

**Original Claim: 12/28/08
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 13, 2009, reference 01, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on March 9, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Steve Rourke participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a machine operator from June 21, 2004, to December 22, 2008. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer if they were not able to work as scheduled. The claimant had received discipline regarding his excessive absenteeism on June 29, 2005; April 10, 2006, and October 10, 2008. The discipline on October 10 was a 30-day unpaid suspension. He was given a last chance agreement that indicated that additional attendance problems would result in his discharge.

The claimant was late for work on December 10 and 11, 2008. On one of the days, he was three hours late due to a broken water pipe at his home. On December 14, the claimant and his father traveled to Chicago to help his sister move back to Iowa. He called the security office and said he was taking a personal day on December 15. They were delayed by harsh weather, and, consequently, he called in again on December 16 and said he was taking a personal day. The claimant had the personal time available, but under the employer's policy, he was required to get approval in advance to take personal days, so the absences were considered unexcused.

On December 22, 2008, the employer discharged the claimant for excessive unexcused absenteeism.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

871 IAC 24.32(7) states that 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 claimant had a long history of unexcused absenteeism, which he was disciplined for several times. He knew his job was in jeopardy but did not attempt to get approval for his absences on December 15 and 16. Work-connected misconduct has been established in this case.

DECISION:

The unemployment insurance decision dated February 13, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw