

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD R BEELER
Claimant

APPEAL NO: 14A-UI-12373-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLIED BARTON SECURITY SERVICES
Employer

OC: 04/20/14
Claimant: Respondent (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's November 21, 2014 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because he had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate at the hearing. Marc Roth, the employer's account manager for John Deere Waterloo Works, testified on the employer's behalf. Karen Cimino was available, but did not testify. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the employer discharged the claimant for disqualifying reasons.

ISSUE:

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

FINDINGS OF FACT:

The employer initially hired the claimant in November 2012. On April 22, 2014, the claimant resigned because of attendance issues. Based on the employer's attendance policy, the claimant was getting close to being terminated for having too many attendance points. If the claimant had not resigned on April 22, 2014, he would not have been discharged unless he accumulated more attendance points. The claimant established a claim for benefits during the week of April 20, 2014. His maximum weekly benefit amount is \$359. The claimant was determined disqualified from receiving benefits because he had quit this employment.

The employer rehired the claimant on July 17, 2014. When employees accumulate five attendance points, they may be discharged for attendance issues. On August 26, the claimant was 60 minutes for work. He received a written warning on August 26 informing him he had accumulated four attendance points since July 17, 2014. The employer reminded him that he had to report to work on time and would be discharged if he accumulated one more point.

On September 1, the claimant reported to work late. He received ½ point. On September 2, the claimant did not work as scheduled. The claimant may have called in to report he would be absent. The claimant received one attendance point for the September 2 absence. On

September 4, Rath talked to the claimant. The claimant understood he had accumulated too many attendance points and did not want to drive an hour to work to be told he was discharged. Rath told him he was discharged for on-going attendance issues and for violating the employer's attendance policy by accumulating five attendance points since July 17. The claimant told the employer that he had problems getting up in time to work his 2 p.m. to 10 p.m. shift.

From July 17 through September 4, 2014, the claimant earned gross wages of \$3,230.72. Since November 2 when the claimant filed an additional claim, he has filed some weekly claims but has not received any benefits.

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 evidence indicates the claimant understood the employer's attendance policy. On August 26, he knew or should have known his job was in jeopardy after he received a written warning for accumulating four attendance points since July 17, 2014. Since the claimant did not participate at the hearing, it is not known why he was late on September 1 and absent on September 2. The claimant did not establish reasonable grounds for his September 1 and 2 absences. Based on the evidence presented at the hearing, the employer discharged the claimant for work-connected misconduct. As of August 31, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's November 21, 2014 determination (reference 02) is reversed. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of August 31, 2014, the claimant is not qualified to receive benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css