

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JOSEPH M WRIGHT**  
Claimant

**ALFAGOMMA AMERICA INC**  
Employer

**APPEAL NO. 14A-UI-11783-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/19/14**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 6, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 8, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Kris Adams 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 tube bender and utility worker from May 19 to October 21, 2014. He was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and were subject to discharge after receiving six attendance points.

The claimant had an attendance record as follows.

Date	Attendance Issue	Points
8/5	Illness	1
8/21	2 hours late for early start overtime	½
8/25	2 hours late for early start overtime	½
8/26	2 hours late for early start overtime	½
9/8	2 hours late for early start overtime	½
9/15	2 hours late for early start overtime	½
9/17	1 hour late for early start overtime	½
9/22	2 hours late for early start overtime	½
9/25	1 hour late for early start overtime	½
10/20	Illness with proper call-in	1

The claimant was sick and unable to work on October 20, 2014. He properly called and notified the employer of his absence. On October 21, the employer discharged the claimant for having six points under the attendance policy.

**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).

The unemployment insurance rules provide: "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." 871 IAC 24.32(7).

The unemployment insurance rules provide: "While past acts and warnings can be used to determine the magnitude of a current act of misconduct, a discharge for misconduct cannot be based on such past act or acts. The termination of employment must be based on a current act." 871 IAC 24.32(8).

The claimant was discharged after his final absence, which was for legitimate illness and was properly reported. While the employer may have been justified in discharging the claimant under its policy, work-connected misconduct as defined by the unemployment insurance law has not been established.

**DECISION:**

The unemployment insurance decision dated November 6, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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