

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANKLIN D SAUNSOCI
Claimant

APPEAL NO. 11A-UI-09359-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CURLYS FOODS
Employer

OC: 07/25/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

Franklin D. Saunsoci filed a timely appeal from an unemployment insurance decision dated July 8, 2011, reference 01, that disqualified him for benefits. After due notice was issued, a telephone hearing was held August 9, 2011 with Mr. Saunsoci participating. Human Resource Assistant Latisha Cvetnich participated for the employer, Curlys Foods. Employer Exhibits One through Five were admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with his employment?

FINDINGS OF FACT:

Franklin D. Saunsoci was employed by Curlys Foods from April 15, 2005 until he was discharged for poor attendance on June 13, 2011. He last worked as a quality assurance technician. Mr. Saunsoci was absent for personal reasons on June 13, 2011. He called the employer from a social security administration office where he was assisting a teenage son in filling out papers. Mr. Saunsoci had been tardy on April 5, 2011 and May 16, 2011. He had received discipline for previous absences and instances of tardiness.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant as discharged for misconduct. It does.

Iowa Code section 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.

Excessive unexcused absenteeism, a concept that includes tardiness, is one form of misconduct. See 871 IAC 24.32(7). The evidence in the record establishes three instances of unexcused absenteeism during the last two months of the claimant's employment. Especially when viewed in the context of prior discipline for similar infractions, the evidence is sufficient to establish misconduct. Benefits are withheld.

DECISION:

The unemployment insurance decision dated July 8, 2011, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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