

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLEN M DENNI
Claimant

APPEAL NO. 12A-UI-06155-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY
Employer

OC: 04/08/12
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Allen M. Denni filed a timely appeal from an unemployment insurance decision dated May 23, 2012, reference 02, that disqualified him for benefits. After due notice was issued, a telephone hearing was held June 13, 2012 with Mr. Denni participating. Payroll and Human Resources Assistant Laura Roney participated for the employer, Agri Star Meat & Poultry.

ISSUE:

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

FINDINGS OF FACT:

Allen M. Denni was employed by Agri Star Meat & Poultry from July 27, 2011 until he was discharged May 7, 2012. He last worked as a machine operator. Mr. Denni does not have a driver's license. He relies on another person to drive him to and from work. The company does not provide transportation for him. Mr. Denni was absent on May 6, 2012 because his driver did not go to work that day. Mr. Denni is scheduled to begin work at 8:00 a.m. Informally, his supervisor allows him to report later than that. Mr. Denni arrived at 8:30 a.m. on May 3, 2012 because his driver was late. He was also tardy on April 22 and 26, 2012. He was absent because of transportation problems on March 11, 2012 and also on February 5, 2012. Mr. Denni received a warning about his attendance on February 6, 2012 and a three-day suspension on March 12, 2012.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with the employment. 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 is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absences due to matters of personal responsibility such as transportation are considered unexcused whether or not the individual has properly reported the absence. See Higgins and Harlan v. Iowa Department of Job Service, 350 N.W.2d 192 (Iowa 1984). The evidence in this record establishes six unexcused absences between February 5, 2012 and May 6, 2012. Especially when viewed in the context of the warning and suspension, the evidence is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated May 23, 2012, reference 02, 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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