

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL D HAWTHORNE
Claimant

REMEDY INTELLIGENT STAFFING INC
Employer

APPEAL NO. 10A-UI-08017-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/18/10
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated June 3, 2010, reference 01, that held he was discharged for excessive unexcused absenteeism on April 15, 2010, and benefits are denied. A hearing was held on July 20, 2010. The claimant did not participate. Vicky Matthias, Senior Staffing Consultant, participated for the employer.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant was issued a warning for attendance issues after he failed to complete two assignments for the employer. The claimant accepted an assignment at Birch Cabinets on April 12, 2010. The claimant was late to work on April 14, and a no-call/no-show to work on April 15. The employer discharged the claimant for repeated attendance policy violations in light of the prior warning.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.32(7) provides:

(7) Excessive unexcused absenteeism. 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 administrative law judge concludes that the employer established misconduct in the discharge of the claimant on April 15, 2010, for excessive "unexcused" absenteeism.

The employer warned the claimant for failing to complete two assignments for attendance issues prior to him beginning work at Birch Cabinets. The claimant was late to work on his second day that was followed by a no-call/no-show to work that constitutes job disqualifying misconduct.

DECISION:

The decision of the representative dated June 3, 2010, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on April 15, 2010. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css