

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DAN M GOULDEN
3817 – 1ST ST
DES MOINES IA 50313**

**NICHOLSON CARPENTRY INC
ACE CABINETS
2157 NE 58TH AVE
DES MOINES IA 50313**

**Appeal Number: 04A-UI-00329-CT
OC: 12/14/03 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Dan Goulden filed an appeal from a representative's decision dated January 12, 2004, reference 01, which denied benefits based on his separation from Nicholson Carpentry, Inc. After due notice was issued, a hearing was held by telephone on February 2, 2004. Mr. Goulden participated personally. The employer participated by David Nicholson, Owner. Exhibit One was admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Goulden was employed by Nicholson Carpentry, Inc. from April 9, 1999 until December 12, 2003 as a full-time laborer. He was discharged for being absent without calling in.

Mr. Goulden was absent on November 11, 2003 because of illness. He was making telephone calls that day to find other employment but did not call his employer to advise of his absence. He was 1.5 hours late on November 17 because of car trouble. Mr. Goulden did not work on Tuesday, December 2, because he felt the owner had called him "stupid" on the preceding Friday. He did not call to report that he would be absent because he was angry. He went to the job site at 4:30 p.m. that day and told the employer he had been absent because he did not have a ride to work. The final absence which triggered the discharge was on December 11 when Mr. Goulden was again absent without calling in. He was notified of his discharge on December 12.

Mr. Goulden had attendance issues prior to November 11, 2003. He acknowledged that he had been absent without calling on at least two occasions prior to November 11. He had received verbal warnings about not calling in. Attendance was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Goulden was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving job insurance benefits if he was excessively absent on an unexcused basis. Absences which are for reasonable cause and which are properly reported to the employer are considered excused absences.

Mr. Goulden had three unreported absences during the final one month of his employment. The evidence of record does not establish any justification for not calling the employer on those days he intended to be absent. He had been verbally warned about such conduct but continued to accumulate unreported absences. His conduct hampered the employer's ability to accurately plan work and production. Unreported absences constitute a substantial disregard of the standards an employer has the right to expect. For the reasons cited herein, it is concluded that the employer has sustained its burden of proving that Mr. Goulden should be disqualified from receiving job insurance benefits.

DECISION:

The representative's decision dated January 12, 2004, reference 01, is hereby affirmed. Mr. Goulden was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjf