

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ERIC B COUSINS

Claimant

APPEAL NO. 12A-UI-12460-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

QCPC INC

QUAD CITIES POWDER COATING INC

Employer

OC: 09/02/12

Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism/Tardiness
871 IAC 24.32(8) – Current Act of Misconduct

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated October 5, 2012, reference 01, that held he was discharged for excessive unexcused absenteeism on August 31, 2012, and benefits are denied. A hearing was held on November 13, 2012. The claimant participated. Dana Shewry, Owner, and Saree Hahn, Office Manager, 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 witnesses, and having considered the evidence in the record, finds that: The claimant worked as full-time labor from August 31, 2009 to August 31, 2012. The claimant received the employer attendance policy that provides for discipline. He was issued a written warning for attendance issues on April 3, 2012.

Claimant was a no-call/no-show to work on August 23. He called in an absence on August 24 and then was a no-call/no-show to work on August 29. He was excused one day to attend a funeral.

When he called the employer on August 29 he stated he had a personal issue to resolve with the police. He called at 8:30 a.m. on August 31 to see if he should report to work when his start time is 7:00 a.m. He was terminated by the employer for excessive unexcused absenteeism.

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(8) provides:

(8) Past acts of misconduct. 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(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 the employer established misconduct in the discharge of the claimant on August 31, 2012, for excessive "unexcused" absenteeism.

The employer issued claimant a written warning in April for attendance issues. Claimant's absenteeism from August 23 thru August 29 was for personal issues that were not excused by the employer except for the funeral day. His late call on August 31 was not excused.

DECISION:

The decision of the representative dated October 5, 2012, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on August 31, 2012. 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/pjs