

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JAMES R CAYLOR**  
Claimant

**APPEAL 18R-UI-00197-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SIOUX CITY MOTOR COMPANY**  
Employer

**OC: 10/01/17  
Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

James R. Caylor (claimant) filed an appeal from the October 1, 2017, reference 01, unemployment insurance decision that denied benefits based upon the determination Sioux City Motor Company (employer) discharged him for engaging in conduct not in its best interest. The parties were properly notified about the hearing. A telephone hearing was held on November 7, 2017, before Administrative Law Judge Julie Elder in appeal 17A-UI-10710-JE-T. The claimant participated in the hearing. The claimant's two registered witnesses were not contacted during the hearing. Rob Brooks, Owner; Roxanne Flammang, Office Manager; Dawn Schmitt, Payroll and Benefits Coordinator; and Caroline Semer, Employer Representative; participated in the hearing on behalf of the employer. Employer's Exhibits 1 through 5 were admitted into evidence. Judge Elder determined the claimant was not eligible for benefits and affirmed the unemployment insurance decision.

The claimant appealed the decision to the Employment Appeal Board (EAB), who reviewed the record and determined it was incomplete. The EAB remanded the hearing back to the Appeals Bureau for the express purpose of reopening the record and taking the testimony of the claimant's two witnesses. A telephone hearing was held on January 26, 2018 before Administrative Law Judge Stephanie Callahan. The claimant observed the hearing and was represented by Attorney Marlon Mormann. The claimant's witnesses Jan Widman and Georgeann Pack participated on his behalf. Rob Brooks, Owner; Roxanne Flammang, Office Manager; Dawn Schmitt, Payroll and Benefits Coordinator; observed the hearing and the employer was represented by Caroline Semer. The previous record and Exhibits from appeal 17A-UI-10710-JE-T were adopted into the record per the EAB instructions.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the EAB remand, the administrative law judge's

findings of fact in appeal 17A-UI-10710-JE-T is hereby adopted and incorporated herein as the findings of fact for appeal 18R-UI-00197-SC-T.

This decision adds: Non-management employees have received written warnings related to attendance. The witnesses who testified and are not members of management did not have access to Human Resources or personnel files during their employment.

**REASONING AND CONCLUSIONS OF LAW:**

Inasmuch as the decision was not vacated as a result of the EAB remand, the administrative law judge's reasoning and conclusions of law in appeal 17A-UI-10710-JE-T is hereby adopted and incorporated herein as the reasoning and conclusions of law for appeal 18R-UI-00197-SC-T.

This decision adds: The employer would issue written warnings related to attendance to non-management employees. There is no indication that other management employees with performance issues were subject to a formal discipline policy or procedure.

**DECISION:**

Inasmuch as the decision was not vacated as a result of the EAB remand, the administrative law judge's decision in appeal 17A-UI-10710-JE-T is hereby adopted and incorporated herein as the decision for appeal 18R-UI-00197-SC-T. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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