

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

FELA LEWIS,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D10-1142

FLORIDA UNEMPLOYMENT
APPEALS COMMISSION and
CITY OF PENSACOLA,

Appellees.

Opinion filed April 15, 2011.

An appeal from an order of the Unemployment Appeals Commission.
Alan Orantes Forst, Chairman.

Fela Lewis, pro se, Appellant.

Louis A. Gutierrez, Senior Attorney, Unemployment Appeals Commission,
Tallahassee, for Appellees.

PER CURIAM.

Appellant, Fela Lewis, challenges the Unemployment Appeals
Commission's affirmance of the appeals referee's determination that Appellant

was not entitled to unemployment benefits because he was discharged for misconduct connected with work. Absenteeism can rise to the level of misconduct where there is evidence of excessive and unauthorized absenteeism. Mason v. Load King Mfg. Co., 758 So. 2d 649, 654 (Fla. 2000). In order for an employer to prove excessive, unauthorized absenteeism, the employer must establish a serious and identifiable pattern of absenteeism that is willful. Hamilton v. Unemployment Appeals Comm'n, 880 So. 2d 1284, 1286 (Fla. 2d DCA 2004). The employer failed to meet this burden in the instant case because it only established that Appellant had two unauthorized absences during the nearly two years he was employed. We, therefore, REVERSE and REMAND.

DAVIS and HAWKES, JJ., CONCUR; WOLF, J., CONCURS IN RESULT.