

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JACKIE R BLAKE
Claimant

APPEAL NO: 13A-UI-07497-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PARCO LTD
Employer

OC: 05/26/13
Claimant: Respondent (2/R)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's June 19, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant responded to the hearing notice, but was not available for the hearing. Tim McGreevey, the general manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer again in August 2012. After the employer rehired the claimant, she worked about 35 hours a week as a crew member. The last day the claimant worked was April 29, 2013. When the claimant called in sick on April 30, the employer told her to provide a doctor's statement for her absence. The employer also told the claimant that her job was in jeopardy for on-going attendance issues. The last written warning the claimant received for an attendance issue was October 29, 2011.

The claimant did not call or report to work as scheduled on May 1. The claimant notified the employer on May 2 that she was unable to work because she was ill. On May 4, the claimant did not call or report to work. On May 6, when the claimant called in to report she was ill and unable to work, the employer told the claimant she was discharged for excessive absenteeism.

The employer understood the claimant did not have an excuse for failing to report or notify the employer she was unable to work on May 1 and 4. The employer rehired the claimant on July 20, 2013.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharged her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

Without the claimant at the hearing, it is not known why she did not call or report to work on May 1 and 4. Since the claimant knew or should have known her job was in jeopardy on April 30, her failure to report to work, timely notify the employer she was unable to work in early May, or provide the employer with a doctor's statement constitutes work-connected misconduct. Without the claimant's testimony to explain why she did not call on May 1 and 4 to report she was unable to work as scheduled, the claimant committed work-connected misconduct. As of May 26, 2013, the claimant is not qualified to receive benefits.

An issue of overpayment and whether the claimant will be required to pay back any overpayment of benefits she may have received since May 26, 2013, will be remanded to the Claims Section to determine.

DECISION:

The representative's June 19, 2013 determination (reference 01) is reversed. The employer discharged the claimant for work-connected misconduct when the claimant did not call or report to work on May 1 and 4. The claimant is disqualified from receiving unemployment insurance benefits as of May 26, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

The issue of overpayment and whether the claimant is required to pay back any overpayment of benefits is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css