

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEYA JEAN F PUFAHL
Claimant

APPEAL NO. 10A-UI-06565-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

**OC: 03/28/10
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated April 26, 2010, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on July 2, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Kimberly Keil participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a retail coworker from June 8, 2004, to March 29, 2010. She had been repeatedly warned about her excessive absenteeism, tardiness, leaving work early without authorization or reasonable excuse, and taking too long for breaks. She was again warned on January 14, 2010, after she was late 19 days since November 2009. She was warned about failing to follow the food sanitation policy on February 12, 2010. Her performance review written on February 12, also emphasized these deficiencies.

After February 12, 2010, the claimant continued to violate the employer's break and attendance policies. The employer discovered the claimant on video surveillance taking 20-minute breaks on March 11 and 15, instead of the 10-minute breaks allowed. The employer also discovered, she left work one hour before the end of her shift without authorization or a legitimate reason on March 11 and 22.

In light of the claimant's continual violation of company policy, the employer discharged her on March 29, 2010.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's repeated conduct was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated April 26, 2010, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs