

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KALISTA L SANCHEZ

Claimant

APPEAL NO. 11A-UI-01199-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA

Employer

OC: 01/02/11

Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 27, 2010, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on March 1, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Mary Eggenburg participated in the hearing on behalf of the employer with a witness, Mary Jo Stevens. Exhibit A was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a clerk for the employer from September 29, 2010, to January 4, 2011.

She missed one hour on November 5 due to her daughter's illness. She missed two hours on November 12 to attend student-teacher conferences. She received approval to take November 19 off work to attend her niece's birthday. On November 24, the claimant left work 2.5 hours early due to concerns about road conditions, as the claimant was traveling to Sioux City for Thanksgiving. She missed eight hours on December 17 due to her daughter's illness. The claimant requested December 21 and 22 off work because the mother of her sister-in-law had died and she wanted to attend the prayer service and funeral. The employer's human resources representative initially approved the claimant taking the time off, but after the claimant had traveled to Sioux City, she was told that funeral leave did not extend to a sister-in-law's parent. Ultimately, the employer approved the time off due to the confusion about the time off. The claimant properly reported her absences to the employer.

The claimant became sick at work on December 30. After about two hours, the claimant decided she was too ill to continue to work. She left work with proper notice to a supervisor.

The employer discharged the claimant on January 24, 2011, for excessive absenteeism.

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 § 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).

871 IAC 24.32(7) provides:

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 claimant's absences, including the final absence on December 30, were due to illness or other legitimate reasons, and were properly reported to the employer. No willful and substantial misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated January 27, 2010, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw