

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MELISSA R CADE  
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EATON CORPORATION  
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Appeal Number: 05A-UI-03272-DWT  
OC: 02//27/05 R: 02  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Melissa R. Cade (claimant) appealed a representative's March 25, 2005 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Eaton Corporation (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 14, 2005. The claimant participated in the hearing with her attorney, Rawsin Stevens. The employer failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which the employer's witness/representative could be contacted to participate in the hearing. As a result, no one represented the employer. Based on the evidence, the arguments of the claimant and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in June 2002. The claimant worked as a full-time machine operator. Matt Erickson was the claimant's most recent supervisor.

During the course of her employment, the employer talked to the claimant about reporting to work late. In July 2004, the claimant received a written warning for reporting to work late. The July warning informed the claimant that if she continued to report to work late, the employer could discharge her. Subsequent to the July written warning, the claimant was sometimes late for work, but she notified the employer when she would be late and made up the time she was late. The claimant did not receive another written warning after July 2004.

In late February 2005, the claimant worked various shifts. The claimant was working 12-hour shifts and was not getting the sleep she needed because there was only 8 hours between the shifts she worked.

The evening of February 26, the claimant got to work around 10:15 p.m. She was not scheduled to work until 11:00 p.m. Instead of going inside, the claimant closed her eyes for a moment and accidentally fell asleep in her vehicle. The claimant did not wake up until 11:20 p.m. She immediately went inside and punched in for work. On March 3, 2005, the employer discharged the claimant for again reporting to work late on February 26, 2005.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(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).

The employer may have had compelling business reasons for discharging the claimant because she reported to work 20 minutes late the evening of February 26, 2005. The evidence does not, however, establish that the claimant intentionally failed to discharge her duty to the employer. Instead, the facts indicate that after the July 2004 written warning, there were no attendance problems that the employer talked to the claimant about until the evening of February 26, 2005. This evening, the claimant got to work before her scheduled shift and inadvertently fell asleep in her vehicle. The claimant did not commit work-connected misconduct when she accidentally fell asleep in the employer's parking lot and did not wake up until 11:20 p.m. Since the claimant did not intentionally fail to report to work on time, she is qualified to receive unemployment insurance benefits as of February 27, 2005.

DECISION:

The representative's March 25, 2005 decision (reference 02) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 27, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/sc