

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMBER M MEYER**  
Claimant

**APPEAL NO. 09A-UI-04298-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEATON INC – BURGER KING**  
Employer

**Original Claim: 01/18/09  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Amber Meyer filed an appeal from a representative's decision dated March 10, 2009, reference 01, which denied benefits based on her separation from Burger King. After due notice was issued, a hearing was held by telephone on April 13, 2009. Ms. Meyer participated personally and offered additional testimony from Dave Allum. The employer participated by Kathy Frerichs, Controller.

**ISSUE:**

At issue in this matter is whether Ms. Meyer was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Meyer began working for Burger King on July 30, 2008 and worked from 15 to 40 hours each week as a cook. She last worked during the payroll week ending September 7, 2008. Thereafter, she was absent because she did not have transportation. She missed four shifts during the one-week period following September 7. When she obtained transportation and returned to work, she was discharged.

Due to flooding in the area during the summer of 2008, a number of residents lived at motels and hotels in the area of the restaurant. This caused an increase in the employer's business. Employees were verbally warned that attendance during this time would be crucial.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that Ms. Meyer's separation was initiated by the employer when she was not allowed to return to work after she obtained transportation. As such, it was a discharge. An individual who was discharged is disqualified from benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. An individual who was discharged because of attendance is disqualified from benefits if she was excessively absent on an

unexcused basis. In order for an absence to be excused, it must be for reasonable cause and it must be properly reported. 871 IAC 24.32(7).

Absences due to matters of purely personal responsibility, such as transportation, are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Therefore, the days Ms. Meyer missed due to not having a vehicle are all unexcused absences. She missed four consecutive shifts due to lack of transportation. The administrative law judge considers this excessive. Ms. Meyer, as well as others, had been verbally warned about the importance of attendance during this time period when the restaurant was busier than usual. For the reasons cited herein, the administrative law judge concludes that Ms. Meyer's four consecutive unexcused absences constituted a substantial disregard for the employer's standards and is, therefore, misconduct within the meaning of the law. Accordingly, benefits are denied.

**DECISION:**

The representative's decision dated March 10, 2009, reference 01, is hereby affirmed as to result. Ms. Meyer was discharged for disqualifying misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw