

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA G CLARK**

Claimant

**APPEAL NO. 12A-UI-00087-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WORKSOURCE INC**

Employer

**OC: 11/20/11**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant appealed from a representative's decision dated December 30, 2011, reference 02, that held she voluntarily quit without good cause on November 21, 2011, and benefits are denied. A telephone hearing was held on January 31, 2012. The claimant participated. The employer did not participate.

**ISSUE:**

Whether claimant was discharged for misconduct in connection with employment.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony, and having considered the evidence in the record, finds that: The claimant began work as a full-time laborer on assignment at Independent Can on October 12, 2011. Claimant called in sick on November 21 and 22. She got a doctor excuse from work on November 23 that she provided to the employer. The employer stated she was dismissed from the assignment due to missing too much work, and she could contact the employer later about further work.

The employer failed to respond to the hearing notice.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(7) provides:

(7) 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 administrative law judge concludes the employer discharged claimant for no act of misconduct on November 23, 2011.

Absences due to properly reported illness should be excused. The employer discharged claimant from work for missing two days due to properly reported and excused absences that is not misconduct.

**DECISION:**

The department decision dated December 30, 2011, reference 02, is reversed. The claimant was not discharged for misconduct on November 23, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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