

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LYNSEAH BERRY
Claimant

APPEAL NO. 14A-UI-02136-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXIDE TECHNOLOGIES
Employer

**OC: 02/02/14
Claimant: Appellant (2)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Lynseah Berry (claimant) appealed an unemployment insurance decision dated February 21, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she was discharged from Exide Technologies (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 18, 2014. The claimant participated in the hearing. The employer witness called in before the hearing and indicated they would not be participating.

ISSUE:

The issue is whether the employer discharged the claimant for disqualifying misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant most recently worked as a full-time material handler and was employed from June 4, 2013, through February 4, 2014, when she was discharged due to violation of the attendance policy. Most of her absences were due to illness and were properly reported. The final absence was due to a family emergency.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. It is the employer's burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989).

Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1). The claimant was discharged on February 4, 2014 for violation of the attendance policy. Most of her absences were due to illness and were properly reported.

When misconduct is alleged as the reason for the discharge and subsequent disqualification of benefits, it is incumbent upon the employer to present evidence in support of its allegations. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. 871 IAC 24.32(4). The employer did not participate in the hearing and failed to provide any evidence. The evidence provided by the claimant does not rise to the level of job misconduct as that term is defined in the above stated Administrative Rule. The employer failed to meet its burden. Work-connected misconduct has not been established in this case and benefits are allowed.

DECISION:

The unemployment insurance decision dated February 21, 2014, (reference 01), is reversed. The claimant was discharged. Misconduct has not been established. Benefits are allowed, provided the claimant is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs