

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEIDRA ROBERTS**  
Claimant

**APPEAL NO. 11A-UI-02938-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOODWILL INDUSTRIES**  
Employer

**OC: 01/30/11  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Deidra Roberts, filed an appeal from a decision dated March 7, 2011, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on March 31, 2011. The claimant participated on her own behalf with Anthony Roberts and was represented by Iowa Legal Aid in the person of Grant Beckwith. The employer, Goodwill, did not provide a telephone number where a witness could be contacted and did not participate. Exhibits A and B were admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Deidra Roberts was employed by Goodwill from November 18, 2008 until January 28, 2011 as a full-time retail worker. She had been given a reminder on November 16, 2010, about the employer's "call in policy" for absenteeism. Apparently Ms. Roberts made some unflattering comments about the policy requiring a doctor's excuse for absences due to illness and was given a "decision day" as a result.

On January 27, 2011, she called in absent to work one hour before the start of her shift. She was caring for her granddaughter and had expected her husband to be home in time to take over before she had to go to work but he was not. The next day, the claimant was fired for absenteeism.

## 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(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

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 claimant was only given a reminder, along with everyone else on staff, about the call-in policy. There is no evidence of any disciplinary action specifically to her about missing any scheduled shifts. The decision day was for conduct unrelated to attendance.

The only evidence of absenteeism is one day on January 27, 2011, which was properly reported in advance. Disqualification may be imposed for excessive, unexcused absenteeism, but the employer has failed to provide any evidence of absences beyond the one day. Goodwill has failed to meet its burden of proof to establish misconduct and disqualification may not be imposed.

**DECISION:**

The representative's decision of March 7, 2011, reference 01, is reversed. Deidra Roberts is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw