

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ZING SUNG**  
Claimant

**APPEAL NO: 15A-UI-05125-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TPI IOWA LLC**  
Employer

**OC: 04/12/15**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 27, 2015, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 8, 2015. The claimant participated in the hearing. Danielle Williams, Human Resources Coordinator, participated in the hearing on behalf of the employer. Employer's Exhibits One through Seven were admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time quality associate for TPI Iowa from October 29, 2012 to April 14, 2015. She was discharged from employment due to a final incident of absenteeism that occurred on April 7, 2015.

The employer uses a no-fault, rolling calendar year attendance policy and termination occurs when an employee reaches 18 points. A full day absence results in the employee being assessed three points; an incident of tardiness or leaving early of more than one hour but less than four hours results in two points; and an incident of tardiness or leaving early of less than one hour results in one-half point. For each month of perfect attendance one attendance point is deducted from the employee's total. Points drop off one year after occurrence. Employees receive a verbal warning upon reaching six points; a written warning upon reaching 12 points; and a final written warning upon reaching 16 points.

The claimant had four and one-half points as of the end of April 2014. On May 17, 2014, the claimant was tardy and received one-half point and on May 19, 2014, she was more than 30 minutes tardy and received one point. She had perfect attendance in June, July and August 2014, and three points were deducted from her total of six points leaving her with three attendance points as of September 1, 2014. The claimant was absent September 11, 2014,

and received three points; she was more than 30 minutes tardy October 8, 2014, and received one point; and she was tardy October 20, 2014, and received one-half point for a total of seven and one-half points. She had perfect attendance in November 2014 and one point was deducted for a total of six and one-half points. She was absent December 8, 2014, and received three points and was tardy December 15, 2014, and received one-half point for a total of ten points. She was absent January 22, 2015, and received three points; one-half point dropped off January 28, 2015; she was tardy February 6, 2015, and received one-half point; and she was absent February 16, 2015, and received three points for a total of 16 points. On March 9 and March 12, 2015, two points expired on each day taking her down to 12 points. On March 24, 2015, the claimant was tardy and received one-half point; on March 27, 2015, she was tardy and received one point; on April 1, 2015, she was absent and received three points; and on April 7, 2015, she was more than two hours tardy because she overslept and received two points for a total of 18.5 points. There is no evidence the claimant's absences were related to illness. The employer terminated the claimant's employment April 14, 2015, for exceeding the allowed number of attendance points.

The claimant received a verbal warning June 1, 2014, after accumulating six points; she received a written warning January 29, 2015, after accumulating 12.5 points; and she received a final written warning February 24, 2015, after accumulating 16 points. The employer does not reissue warnings as employees' point totals go up and down but it does post an updated list of attendance points by the break room each week using employee's clock in number.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for disqualifying job misconduct.

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.

Iowa Admin. Code r. 871-24.32(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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984).

The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of absenteeism, is considered excessive. Therefore, benefits must be denied.

**DECISION:**

The April 27, 2015, reference 01, decision is affirmed. The claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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