

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**MICHAELA DANIELS**

Claimant

**APPEAL NO: 19A-UI-07799-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MASTERBRAND CABINETS INC**

Employer

**OC: 12/16/18**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 2, 2019, reference 04, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 24, 2019. The claimant participated in the hearing. Amy Mosley, Senior Human Resources Generalist, participated in the hearing on behalf of the employer.

**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 sander for Masterbrand Cabinets from October 22, 2018 to September 12, 2019. She was discharged for exceeding the allowed number of attendance hours.

Each employee receives 64 “bucket hours” which is non-paid time she can use throughout the year for unplanned absences. If an employee exhausts her bucket hours she receives a warning letter and if she accumulates one more absence before her bucket hours reset on her anniversary date her employment is terminated. If the employee files for FMLA or a leave accommodation, that time does not count against the bucket hours.

The claimant was absent due to illness January 2, 2019, and used bucket hours; she was absent due to weather January 23, 2019, and used bucket hours; she was 37 minutes tardy due to car trouble January 29, 2019, and used bucket hours; she was absent due to illness February 12, 2019, and used bucket hours; she was absent five hours and 45 minutes to attend an event at her son’s school February 13, 2019, and used bucket hours; she was one minute tardy March 18, 2019, and used bucket hours; she was absent due to illness March 26 2019, and used bucket hours; she was absent due to transportation issues April 8, 2019, and used bucket hours; she was absent due to a sick child April 22 and April 23, 2019, and used bucket

hours; she left two hours early due to illness May 1, 2019, and used bucket hours; and she was two hours tardy due to car problems August 14, 2019, and used bucket hours.

The employer issued the claimant an attendance warning letter August 15, 2019, because she exhausted her bucket hours. On September 11, 2019, the claimant was one minute tardy and her employment was terminated.

### **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, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 October 2, 2019, reference 04, 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

je/scn