

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMBER L BECKER
Claimant

APPEAL NO. 13A-UI-03952-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 03/03/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated March 26, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on May 6, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Carrie Jaster participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as an assembler from February 20, 2012, to March 7, 2013. She was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled.

The claimant had been warned about her excessive absenteeism on May 30, 2012, after several days in May when she was absent due to personal business. She received another warning on January 25, 2013, after missing several days in September, October, and January. While some of the days were due to illness, others were for personal business, car problems, and court appearances. She received a final warning on February 19, 2013, after she left work early on January 31 and February 6 due to illness and called in sick on February 1, 9, and 18.

The claimant stopped at a gas station on her way to work on March 5 and locked her keys in her car. She called the employer and said she would likely not be in because she locked herself out of her car. She was able to get another set of keys and could have reported late to work, but she figured that she was probably going to be terminated anyway so she went home instead of reporting late for work. In fact, if the claimant had reported to work, she probably would not have been discharged.

On March 7, 2013, the employer discharged the claimant for excessive unexcused absenteeism.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The unemployment insurance rules provide: "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." 871 IAC 24.32(7).

The claimant had received repeated warnings about her absenteeism, which was not all for illness. After her final warning, she missed work on March 5 and her reason for not reporting to work was not excused. She showed poor judgment in going home rather than reporting to work that day and disregarded the employer's interests. Work-connected misconduct has been shown in this case.

DECISION:

The unemployment insurance decision dated March 26, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/tll