

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ADRIANA MAGANA DE MERAZ**  
Claimant

**APPEAL NO: 14A-UI-03621-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SWIFT PORK COMPANY**  
Employer

**OC: 03/09/14**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2) a- Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 31, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the May 2 hearing. Aureliano Diaz appeared on the employer's behalf. Ike Rocha interpreted the hearing. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2012. The employer's attendance policy informs employees they can be discharged if they accumulate nine attendance points in a rolling calendar year.

During the claimant's employment, she received warnings about the number of attendance points she accumulated. On September 6, 2013, the claimant received a written warning informing her she had five attendance points. On March 3 and 4, 2014, the claimant notified the employer she was unable to work because of personal problems. When the claimant reported to work on March 5, she received a written warning informing her she had accumulated eight attendance points. The claimant understood that if she accumulated one more point, she could be discharged.

On March 10, the claimant notified the employer she was unable to work. The claimant did not have anyone to take care of her two children, three and four years old, on March 10. On March 12, the employer informed the claimant she was discharged because she violated the employer's attendance policy by having too many absences.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. Iowa Admin. Code r. 871-24.32(7).

The evidence indicates the claimant's most recent attendance issues occurred because of personal issues. On March 3 and 4, the claimant did not go to work because of personal issues, but she had childcare these days. On March 10, the claimant did not have anyone to take care of her young children. The claimant could not leave her young children at home alone. It is unfortunate that the claimant had personal issues and did not ask the employer if she could have time off to resolve these issues, but the evidence does not establish that the claimant intentionally disregarded the employer's interests. On March 10, the claimant established reasonable grounds for notifying the employer she was unable to work.

The employer had justifiable business reasons for discharging the claimant, but the evidence does not establish that the claimant committed work-connected misconduct. As of March 9, 2014, the claimant is qualified to receive benefits.

**DECISION:**

The representative's March 31, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons because she accumulated too many attendance points. The evidence does not establish that the claimant committed work-connected misconduct. As of March 9, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css