

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JESSICA R LYLE
5551 – 520TH ST
LONE TREE IA 52755**

**MEDIACOM COMMUNICATIONS
CORPORATION
100 CRYSTAL RUN RD
MIDDLETOWN NY 10941**

**Appeal Number: 05A-UI-06864-H2T
OC: 06-05-05 R: 03
Claimant: Respondent (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 20, 2005, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on July 20, 2005. The claimant did participate. The employer did participate through Rick Tyler, Senior Customer Service Manager, (representative) Ginger Carroll, Customer Service Supervisor, and Mary Kay Kellogg-Strong, Human Resources Manager.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a customer service representative full time beginning September 25,

2001 through June 2, 2005 when she was discharged from employment due to a final incidents of absenteeism on May 30, 2005, when she left early because she was sick. The claimant was absent due to illness May 31, 2005 yet she properly reported her illness. She worked again on June 1, 2005 but left work early because she was sick. The employer believed that the claimant was ill when she left work on May 30, May 31, 2005. The claimant was never told she had to bring in a doctor's note in order to be allowed to return to work. The claimant was late to work on June 2 because she was at the doctor's office that morning. The doctor's note allowed the claimant to miss work on June 2, 2005 due to illness.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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(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.

Excessive absences are not considered misconduct unless unexcused. Absences due to properly reported illness cannot constitute job misconduct since they are not volitional. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Because the final absence for which she was discharged was related to properly reported illness, no final or current incident of unexcused absenteeism has been established and no disqualification is imposed.

DECISION:

The June 20, 2005, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

tkh/pjs