

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERETTA S CUNEO

Claimant

APPEAL NO. 13A-UI-10249-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA

Employer

OC: 08/04/13

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated August 29, 2013, reference 01, that held she was discharged for excessive unexcused absenteeism and tardiness on August 5, 2013, and benefits are denied. A hearing was held on October 3, 2013. The claimant did not participate. Adam Dedic, Loan Administration manager Jeanne Schwarte, manager and Judy Berry, Representative, participated for the employer. Employer Exhibit One was received as evidence.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant was hired on October 3, 2010 and last worked as a full-time loan document specialist on August 5, 2013. The claimant received the employer attendance policy that provides for progressive discipline.

The employer issued claimant an informal written warning for excessive absence and tardiness on July 3, 2013. Claimant received and signed for the warning. The employer issued claimant a formal warning for excessive absences and tardiness on July 12, 2013. Claimant received and signed for the warning. The employer advised claimant further attendance occurrences could lead to employment termination.

Claimant was late to work on July 22, 23, 25 and 30. The employer terminated claimant on August 5 for violation of its attendance policy in light of progressive discipline.

Claimant was not available when called at the phone number she provided as shown on the department record (APLT) system.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge concludes employer established misconduct in the discharge of the claimant on August 5, 2013, for excessive "unexcused" absenteeism/tardiness.

The employer issued claimant progressive discipline to let her know she was in violation of its attendance policy to the point she could be terminated. Claimant was late on four occasions after the July 12 formal warning that constitute job disqualifying misconduct.

DECISION:

The decision of the representative dated August 29, 2013, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on August 5, 2013. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs