

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINE M SHAFFER
Claimant

APPEAL NO: 14A-UI-03219-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLSTEEL INC
Employer

OC: 03/17/13
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 12, 2014 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated at the May 7 hearing. Sandra Linsin, a representative with Employers Edge, appeared on the employer's behalf. Emily Bennette testified on the employer's behalf. During the hearing, Employer Exhibits One and Two were offered and admitted as evidence. 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 July 2013. She worked as a full time hourly employee. When the employer hired her, the claimant received a copy of the employer's attendance policy. The policy informs employees they will be discharged if they accumulate 11 absences in a rolling calendar year. The employer offers employees the opportunity to take a personal leave of absence when they have long-term health issues. (Employer Exhibit One.)

As of January 1, 2014, the claimant had five attendance incidents left to use during her first year of employment. On January 7, 8 and 9, 2014, the claimant notified the employer she was ill and unable to work. She gave the employer a doctor's note for these absences. The employer assessed the claimant only one absence for these days. The claimant then called in sick and provided a doctor's note for her absences on January 23 through 28, 2014. The employer again assessed the claimant only one absence for these days. On February 4, the claimant called in sick and was off work until February 7. She provided a doctor's note for these absences. The employer assessed the claimant one absence for these days. When the claimant returned to work, the employer gave the claimant a written warning for having only two absences left. (Employer Exhibit Two.)

The claimant returned to work after February 7 and worked until February 12, 2014. She again called in sick on February 13. She had a doctor's note verifying she was ill and unable to work February 13 through 17. The employer assessed her one absence for these days. The claimant called in sick on February 18 and 19. When the claimant called in sick she had not gone back to her doctor to verify she was still ill or her that her absence from February 13 through 17 was connected to her February 18 and 19 absences. Since the employer did not have a doctor's note connecting her February 18 absence to the February 13 to 17 absences, the employer assessed one attendance issue for each day, February 18 and 19. The employer concluded the claimant exceeded the number of absences the employer allowed during a calendar year when she called in on February 18 and 19. On February 19, the employer told her she no longer needed to call because she had been discharged for violating the employer's attendance policy.

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. 871 IAC 24.32(7).

The employer discharged the claimant for justifiable business reasons. The claimant was excessively absent from work. However, she properly reported her absences and the most recent absences occurred because she was ill and unable to work. The claimant did not commit work-connected misconduct. Based on the reasons for her employment separation, the claimant is qualified to receive benefits as of February 23, 2014.

The employer is not one of the claimant's base period employers during the benefit year that was in effect the week of February 23, 2014.

DECISION:

The representative's March 12, 2014 determination (reference 03) is affirmed. The employer discharged the claimant for justifiable business reasons after the claimant exceeded the number of absences the employer allowed during a rolling calendar year. The claimant did not commit work-connected misconduct. As of February 23, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. During the claimant's benefit year, March 17, 2013, through March 15, 2014, the employer's account will not be charged because the employer is not one of the claimant's base period employers.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css