

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

KELLY L LEFFLER
616 – 9TH ST #1
BOONE IA 50036

SINCLAIR OIL CORPORATION
C/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-00320-CT
OC: 12/07/03 R: 02
Claimant: Appellant (2)

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 for Misconduct

STATEMENT OF THE CASE:

Kelly Leffler filed an appeal from a representative's decision dated January 9, 2004, reference 01, which denied benefits based on her separation from Sinclair Oil Corporation (Sinclair). After due notice was issued, a hearing was held by telephone on February 2, 2004. Ms. Leffler participated personally and offered additional testimony from Kayla Leffler. The employer participated by Mary Wolfgang, Supervisor, and Robert Watson, Human Resources Manager. The employer was represented by Joe Subia of Talx UC Express. Exhibits One, Two, and Three were admitted on the employer's behalf.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Leffler began working for Sinclair on April 25, 2002 as a sales associate. On November 30, 2003, she notified the employer that she would not be at work because she had sustained a fall away from work. She was absent on November 31 for the same reason. On December 1, she was told that she would need to provide a doctor's statement before she could return to work. She had not seen a doctor but advised the employer that she would try to get a medical statement verifying that she was able to resume working. She was not given a deadline by which the documentation had to be provided.

On December 2, Ms. Leffler provided a doctor's statement but it was not acceptable because it did not indicate that she had actually been examined by the doctor. On December 2, Ms. Leffler was told that she had until December 5 in which to submit the necessary medical statement. She contacted her family doctor but could not get an appointment until December 8. She notified the employer of this fact on December 4. Ms. Leffler went to the scheduled doctor's appointment at 4:00 p.m. on December 8. She waited for an hour but the doctor was running behind schedule and she was told the wait would be at least two hours. Ms. Leffler had to get her children home so she rescheduled the appointment for the following Tuesday, December 16. She was told by the employer on December 9 that she had until 5:00 p.m. on December 10 in which to provide the medical statement.

Ms. Leffler contacted the doctor's office each day to determine if there had been any cancellations that would allow her to be seen before December 16. The doctor's office also agreed to call her if any openings became available. No openings were available before December 16. When she still had not presented a doctor's statement as of December 11, Ms. Leffler was discharged. The above matter was the sole reason for her discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Leffler was separated from employment for any disqualifying reason. Because it was the employer's decision that she would not be allowed to continue working, the separation is considered a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Leffler was discharged because she failed to provide a doctor's statement verifying that she was able to return to work after her fall away from work. She was putting forth a good-faith effort to provide the documentation requested by the employer. The fact that she presented a doctor's statement on December 2 is indicative of her intent to be compliant with the employer's request. She then scheduled an appointment to be examined by the doctor as requested by the employer. Although she could have remained at the doctor's office on December 8, she had family obligations that prevented her from doing so. She could not have anticipated that her doctor would not be able to see her at the scheduled time. Although Ms. Leffler knew that she could not return to work without the medical statement, she did not know that she might lose her job. Had she known, she might well have made the decision to remain at the doctor's office on December 8, regardless of how long it took.

The employer knew on December 9 that Ms. Leffler did not have another appointment with her doctor until December 16. However, she was only given until December 10 in which to submit a medical statement. She made good-faith efforts to be seen by the doctor prior to the

employer's deadline but was not able to. Ms. Leffler did not deliberately or intentionally fail to provide the employer with the necessary documentation which would have allowed her to resume working. For the above reasons, the administrative law judge concludes that the employer has failed to establish disqualifying misconduct. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated January 9, 2004, reference 01, is hereby reversed. Ms. Leffler was discharged from employment but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/b