

The claimant was granted a week off from July 28 to August 3, 2005, to attend her sister's wedding in Mississippi. The claimant was scheduled to return to work on August 4, 2005. The claimant's aunt became sick and the claimant decided to stay to be with her. The claimant called her supervisor and stated that she would not be at work. Her supervisor informed her that her shift would be covered but she expected her to be at work on August 5.

The claimant was absent from work without notice to the employer on August 5. On August 6, the claimant called and left a message for her supervisor stating that she wanted to take a leave of absence to care for her aunt. The supervisor returned the call and informed the claimant that her leave of absence could not be granted and she was expected to be back at work on August 7, 2005.

The claimant was absent from work without notice on August 7 and missed a mandatory staff meeting without notice on August 8. She was again absent without notice on August 9. The claimant called in later on August 9 and stated that she would not be able to work on August 11. Her supervisor made sure her shift was covered on August 11. The claimant was again absent without notice on August 12 and 14. As a result of her repeated absences without notice to the employer, the employer discharged the claimant on August 14.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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(1)a provides:

Discharge for misconduct.

(1) Definition.

- a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's

duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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 claimant's excessive unexcused absenteeism was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case. She was repeatedly absent from work without notice to the employer, and she did not find her own replacement as required by the employer's policy.

#### DECISION:

The unemployment insurance decision dated September 30, 2005, reference 01, is modified with no effect on the outcome. The claimant was discharged for work-connected misconduct. She is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

saw/pjs