

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LISA REIMAN**  
Claimant

**APPEAL NO: 12A-UI-05223-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PURE FISHING INC**  
Employer

**OC: 04-08-12**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the April 30, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 29, 2012. The claimant participated in the hearing. Carla Jones, Human Resources Manager; Greg MacTaggart, Operations Manager; and Shelly Krause, Human Resources Director; participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time bait mixer for Pure Finishing from January 3, 2000 to April 6, 2012. The employer uses a no-fault point based attendance policy and employees are discharged upon reaching nine points in a rolling 12-month period. Employees are assessed one point for a full absence; one-half point for an incident of tardiness or leaving early of less than two hours; and six points for a no-call no-show absence. The employer issues a verbal warning in writing when an employee reaches six points; a written warning when an employee reaches seven points; a final written warning when an employee reaches eight points; and the employee is terminated upon reaching nine points. The claimant left more than two hours early July 15, 2011, and received one point; overslept and was tardy October 5, 2011, and received one-half point; was absent October 17, 2011, and received one point; overslept and was tardy December 15, 2011, and received one-half point; wanted a day off and called in December 16, 2011 and January 3, 2012, and received one point for each occurrence; took a vacation day but did not give proper notice January 25, 2012, and received one point; overslept and was tardy February 22, 2012, and received one-half point; wanted a day off and called in March 23, 2012, and received one point; and was a no-call no-show April 5, 2012, and received six points for a total of 13.5 points. The employer terminated the claimant's employment April 6, 2012, for excessive unexcused absenteeism. The employer's computerized attendance system

generates emails to supervisors when an employee is supposed to receive a warning. The claimant's supervisor did not receive an email January 25, 2012, when she accumulated six points. Consequently, when the employer realized its error April 4, 2012, the claimant was given a verbal warning in writing, rather than a written warning, because she had seven and one-half points. The warning also addressed the claimant taking excessive breaks and not being a diligent worker. The claimant was upset about the warning and did not call in April 5, 2012, knowing that would place her above the allowed number of attendance points. There is no evidence that these absences were related to illness.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for disqualifying job misconduct.

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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). The claimant accumulated 13.5 attendance points on a scale of nine. She was at seven and one-half points when she no-called no-showed April 5, 2012, following the warning she received April 4, 2012. The claimant was aware of the number of attendance points she had as of April 4, 2012, and knew that a no-call no-show would result in her being assessed six points and cost her the loss of her job. The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of absenteeism, is considered excessive. Therefore, benefits must be denied.

**DECISION:**

The April 30, 2012, reference 01, decision is affirmed. The claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Julie Elder  
Administrative Law Judge

---

Decision Dated and Mailed

je/pjs