

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**OCTAVIA M REDD**  
Claimant

**APPEAL NO. 08A-UI-04823-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CDS GLOBAL INC**  
Employer

**OC: 04-27-08 R: 02**  
**Claimant: Respondent (1)**

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

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the May 16, 2008, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on June 19, 2008. The claimant did participate. The employer did participate through (representative) Linda Burns, Employee Relations Specialist, Brandon Leek, Senior Manager, Michelle Baumgardner, Customer Service Manager. Employer's Exhibit One was received.

**ISSUE:**

Was the claimant discharged for work-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a customer service representative full time beginning July 18, 2005 through April 22, 2008 when she was discharged. On April 21, 2008 the claimant called in absent from work when she had to take her 14-year-old daughter to the doctor. The claimant properly reported her absence. The claimant is a single parent who lives with her disabled father and her two children. There was no one else available to take her child to the doctor for her.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

Excessive absences are not considered misconduct unless unexcused. Absences due to properly reported illness cannot constitute job misconduct since they are not volitional. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Absences related to lack of childcare are generally held to be unexcused. Harlan v. Iowa Department of Job Service, 350 N.W.2d 192 (Iowa 1984). However, a good faith inability to obtain childcare for a sick infant may be excused. McCourtney v. Imprimis Technology, Inc., 465 N.W.2d 721 (Minn. App. 1991).

Because the final absence was related to the properly reported illness of a child, for which no childcare was available, no final or current incident of unexcused absenteeism has been established and no disqualification is imposed. A single parent with an ill child who needs to go to the doctor is placed in an untenable position. Either provide medical care for the ill child or go to work. A parent who fails to provide medical care for an ill child would be guilty of neglect. In such a situation a parent has no choice but to provide medical care to an ill child and to miss work. Missing work under these circumstances is not volitional and cannot be considered misconduct. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The May 16, 2008, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/pjs