

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEVERLY J MYERS
Claimant

APPEAL NO. 10A-UI-03876-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORDSTROM INC
Employer

**Original Claim: 02/07/10
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 5, 2010, reference 01, that concluded she voluntarily quit employment with good cause attributable to the employer. A telephone hearing was held on May 3, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Peg Elofson participated in the hearing on behalf of the employer with witnesses, Jason Pierce, Justin Bird, and Robin Pospisil.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a customer returns processor from November 16, 2006, to February 10, 2010. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer if they were not able to work as scheduled. Under the employer's attendance policy, an employee was subject to termination after receiving seven attendance points.

The claimant was discharged on February 10, 2010, because she had exceeded seven points under the attendance policy. The final instances of absenteeism were due to her leaving work early on January 20 due to severe winter weather and adverse road conditions, arriving at work late on January 26 due to severe winter weather and adverse road conditions, and being absent from work on February 9, 2010. The claimant's absence on February 9, 2010, was a result of the roads from her home to work being too hazardous for the claimant to get to work safely. She called in properly to report her absence. Nearly all of the points leading to the claimant's separation were for weather or illness, with a couple of days due to car problems.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

871 IAC 24.32(7) provides:

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.

I conclude that the adverse weather and road conditions provided the claimant with reasonable ground for the absences that led to her discharge.

DECISION:

The unemployment insurance decision dated March 5, 2010, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw