

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STASI A BROWN**  
Claimant

**APPEAL NO. 10A-UI-14626-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QWEST CORPORATION**  
Employer

**OC: 09/26/10  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 21, 2010, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on December 10, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing with witness, Jen Oliver and Connie Reynolds. John O'Fallon participated in the hearing on behalf of the employer with a witness, Carol Murley.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full-time as a customer service agent from September 16, 1996, to September 27, 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 before the start of their shift if they were not able to work as scheduled.

The claimant received a written warning for excessive absenteeism on April 19, 2010. She received a written warning of dismissal on July 12 for excessive absenteeism. She was given a second written warning of dismissal on September 24 after she was one hour and fifty-nine minutes late on September 21. She suffered a migraine headache and waited until the medication took effect before reporting to work. She was told that another tardy or absence could result in her termination.

The claimant ran out of gas on her way to work on September 27. She did not properly report her absence but instead called in a half hour late after she had figured out when she would be able to report to work. She reported to work 55 minutes late.

The employer discharged the claimant for excessive unexcused absenteeism on September 27, 2010.

**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.

The claimant had excessive absences and tardiness and was warned that her job was in jeopardy due to her attendance. The final tardiness was not for an excused reason. Someone who knows that they are about to be fired for absenteeism would take the reasonable step of filling their tank to avoid losing their job. In addition, the claimant failed to properly report that she was going to be late for work. Work-connected misconduct has been proven in this case.

**DECISION:**

The unemployment insurance decision dated October 21, 2010, reference 01, is affirmed. The claimant 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.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw