

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NAKIA REED**  
Claimant

**APPEAL NO. 11A-UI-05582-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EMPLOYER'S SERVICE BUREAU INC**  
Employer

**OC: 03/20/11  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated April 19, 2011, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on May 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Joe Rausenberger participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer on an assignment at Nestle-Purina from August 9, 2010, from March 14, 2011. 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. The claimant's attendance was irregular and on January 13, February 4, and February 14, she was absent without notifying the employer. She was warned about her absenteeism.

The claimant was off work from March 15 through 23. She was out of town for part of the time attending a cousin's funeral in Chicago. She called in every day except Monday, March 21. She returned to the Clinton area on Monday or Tuesday, but she did not report to work until Thursday, March 24.

When she reported to work on March 24, she was told that she needed to talk to the superintendent, Joe Rausenberger. Rausenberger informed her that she was discharged for excessive unexcused absenteeism.

**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 was warned about her excessive absenteeism, yet continued to miss work. She may have had an excuse for initially missing work after her cousin died, but she continued to be absent from work after she returned to Clinton. Therefore, not all her absences were excused. Additionally, I believe Rausenberger's testimony that there were times, including March 21, when the claimant was absent from work without proper notice. Work-connected misconduct has been shown in this case.

**DECISION:**

The unemployment insurance decision dated April 19, 2011, 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.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/pjs