

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROSANNE L WILSON
Claimant

APPEAL NO. 10A-UI-03476-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SHOE SENSATION
Employer

**OC: 01/24/10
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 22, 2010, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on April 21, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Heather Hayden 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 as assistant manager from May 7, 2009, to January 20, 2010. On September 4, 2009, and January 7, 2010, the claimant was warned about reporting to work on time and failing to punch in when she reported to work, which was required by the employer's work rules. In the January 7, 2010, warning she was informed that if it happened again within 30 days, she would be discharged.

The claimant arrived at work 20 minutes late on January 18, 2010. Based on the warning she had received, she was discharged for excessive tardiness.

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 section 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).

The claimant's violation of a known work rule and warning was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. The claimant argues that she was not late but instead failed to punch in. I am convinced there were times when the claimant was late for work and times when she punched in late. I believe the claimant was late on January 18, but even if she punched in late, she was in violation of the warning she had received on January 7, 2010. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

DECISION:

The unemployment insurance decision dated February 22, 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.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs