

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGELA D WRIGHT
Claimant

APPEAL NO. 10A-UI-13268-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP
Employer

OC: 08/23/09
Claimant: Respondent (1)

Section 96.5-2-a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 17, 2010 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Jessica Sheppard, a human resource generalist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working full-time for the employer in October 2009. The claimant received information about the employer's attendance policy. The employer assesses attendance points when employees are not at work as scheduled. If an employee accumulates ten attendance points in a rolling calendar year, the employer may discharge the employee.

On March 13, 2010, the claimant learned she had accumulated five attendance points. On June 5, the employer gave her a warning for having eight attendance points. Upon reviewing her attendance record, the employer discovered the claimant only had six attendance points. The claimant called in sick on June 26 to report she was unable to work. On July 23, the claimant called and reported she was ill and unable to work. As a result of her June 26 and July 23 absences, the claimant had accumulated eight attendance points.

On July 24, the claimant still did not feel well. The claimant called the employer, but the employer's records do not indicate the claimant called to report her absence. There are times the attendance phone does not accurately record a call because a social security number has not been recorded accurately. The employer prints out these messages and tries to match up employees who were not at work.

When the claimant called at 10 a.m. on July 24 to report she was ill and unable to work at 3:30 p.m., she had no idea her call was not accurately recorded. When the claimant reported to work on July 26, the employer discharged her because she had accumulated ten attendance points. For the July 24 absence, the employer assessed her two points instead of one for not notifying the employer she was ill.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The claimant asserted she called on July 24 to report she was still ill and unable to work. Since the claimant knew her job was in jeopardy because of attendance issues and she had previously called when she was unable to work, the claimant's assertion that she called the employer on July 24 is credible. The facts show the employer had business reasons for discharging the claimant. A preponderance of the evidence establishes the claimant notified the employer on July 24 she was ill and unable to work. Therefore, the claimant did not commit work-connected misconduct. As of July 25, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's September 17, 2010 determination (reference 02) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of July 25, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw