

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRYSTAL S WEST
Claimant

APPEAL NO. 12A-UI-12414-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE CROWN GROUP INC
Employer

OC: 09/02/12
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 11, 2012, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on November 13, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Pete Shepard participated in the hearing on behalf of the employer with a witness, Joan Johnson.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a tracker-unloader from May 24, 2011, to September 6, 2012. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled and were subject to discharge if they exhausted the eight attendance points they were allowed. Points were deducted for unscheduled absences and tardiness.

The claimant received a final warning regarding her excessive absence and tardies on March 22. She was over 30 minutes late on July 18, which left her with one-half point. She was less than late less than 30 minutes on August 2, which left her with one-quarter point.

The claimant overslept on September 5. She was scheduled to report at 9:00 p.m., but arrived at work at 12:27 a.m. When she woke up, she notified the employer that she was going to be late, but the call was not made timely.

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 was repeatedly late for work. Her final late report was not for any excusable reason and she did not properly report that she was going to be late. Work-connected misconduct has been proven in this case.

DECISION:

The unemployment insurance decision dated October 11, 2012, 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/css