

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY M FREEMAN**  
Claimant

**APPEAL NO: 13A-UI-08324-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DEE ZEE INC**  
Employer

**OC: 06/16/13**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's July 10, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant responded to the hearing notice, but was not available for the hearing. Sara Tew, a human resource specialist, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

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

**FINDINGS OF FACT:**

The claimant started working for the employer in September 2010. She worked full time on the tool box assembly. The employer's attendance policy informs employees they will be discharged if they accumulate 48 attendance points.

The employer gave the claimant a written warning in July 2012 for on-going attendance issues. After the claimant received the July 2012 written warning, her attendance improved for a while. Starting in February 2013, the claimant started accumulating attendance points by reporting to work late and being absent one day. The claimant was late for work on February 12, 22, March 1 and June 6. On March 18, the claimant was absent and received eight points for this absence. When the claimant was late on June 6, she had accumulated 48 attendance points. The employer could have discharged her on June 6, but did not. The employer did not discharge her on June 6 because the employer understood the claimant had some personal problems. The employer was trying to work with the claimant so she could continue her employment. The employer told her on June 6 that she could not be late for work again.

On June 21, 2013, when the claimant reported to work late, the employer told her she was discharged for excessive, unexcused absenteeism. On June 21 management decided the employer could no longer work with her. The claimant had more than 48 attendance points when the employer discharged her on June 21, 2013.

**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 knew or should have known her job was in jeopardy after she reported to work late again on June 6, 2013. Since the claimant did not participate at the hearing, it is not known why she was late for work on June 6 and 21. Based on the employer's attendance policy, the claimant had excessive, unexcused absenteeism. The evidence establishes that since the claimant continued to report to work late without any justifiable reason, she committed work-connected misconduct by intentionally failing to work as scheduled. As of June 16, 2013, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's July 10, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of June 16, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs