

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA K LAWSON**  
Claimant

**APPEAL NO. 10A-UI-01754-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PUTMAN INC**  
Employer

**OC: 12/20/09**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Linda Lawson filed an appeal from a representative's decision dated January 25, 2010, reference 01, which denied benefits based on her separation from Putman, Inc. After due notice was issued, a hearing was held by telephone on March 18, 2010. Ms. Lawson participated personally. The employer participated by Amy Ehrhardt, area Manager.

**ISSUE:**

At issue in this matter is whether Ms. Lawson was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Lawson worked for Putman, Inc., a temporary placement firm, from August 11 until December 18, 2008. She had only one assignment, AKS, where she worked full-time hours. She was removed from the assignment because of her attendance.

Ms. Lawson was absent due to illness on October 5 and, as a result, received a written warning. She was absent because of car trouble on October 13 and received another written warning. The decision to remove her from the assignment was due to her absence of December 18. She reported that she would not be at work because of winter road conditions. She was notified on December 19 that she was not to return to AKS. Ms. Lawson has not performed services for Putman, Inc. since December 18, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Lawson became separated from Putman, Inc. on December 18, 2008 because she was discharged from her assignment. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from benefits if she was excessively absent on

an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and must be properly reported. 871 IAC 24.32(7). The administrative law judge is not bound by an employer's designation of an absence as unexcused.

Ms. Lawson's absence of October 5 is excused as it was for reasonable grounds, illness, and was properly reported. Although the absence was excused, the warning she received put her on notice that attendance could be an issue. Ms. Lawson's absence of October 13 was unexcused as it was due to a matter of purely personal responsibility, transportation. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Because she received an additional warning after the absence of October 13, Ms. Lawson knew or should have known that further attendance infractions could jeopardize her continued employment. However, she made no attempt to get to work on December 18. It was her choice to stay home rather than attempt to go to work and therefore, the absence is unexcused.

Ms. Lawson had two unexcused absences within a period of approximately two months. The administrative law judge considers this excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards an employer has the right to expect and is, therefore, misconduct within the meaning of the law. For the reasons cited herein, benefits are denied.

**DECISION:**

The representative's decision dated January 25, 2010, reference 01, is hereby affirmed. Ms. Lawson was discharged from her assignment for misconduct within the meaning of the law. Benefits are denied until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs