

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Jennifer Behrens' employment at Countryside Retirement Home ended on June 27, 2005. The employer discharged the claimant because of absences due to a medical condition. Ms. Behrens kept the employer informed of her medical status.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her work. It does not.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Excessive unexcused absenteeism is misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). On the other hand, absences due to a medical condition properly reported to the employer cannot be held against an employee for unemployment insurance purposes. See Higgins and 871 IAC 24.32(7). The evidence in this record persuades the administrative law judge that Ms. Behrens was discharged because of absences due to a medical condition which were properly reported to the employer. Under these circumstances, disqualification cannot be imposed. The administrative law judge notes that the claimant had received a release to return to work prior to the time that she filed her claim for unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated September 27, 2005, reference 02, is affirmed. The claimant is entitled to receive unemployment insurance benefits provided she is otherwise eligible.

dj/kjw