

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSICA S THIEDE**

Claimant

**APPEAL NO. 14A-UI-09192-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 08/03/14**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jessica Thiede (claimant) appealed a representative's August 25, 2014, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Casey's Marketing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for September 24, 2014. The claimant participated personally. The employer participated by Elizabeth Willis, Manager, and Jessica Evans Kitchen Service Manager. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 27, 2008, as a full-time store employee. The claimant signed for receipt of the employer's handbook on July 12, 2010. The employer issued the claimant warnings for attendance/tardiness on January 8, November 1, 2010, January 11, December 13, 2011, December 9, 2013, and June 25, 2014. The employer notified the claimant that further infractions could result in termination from employment. The claimant was tardy twelve days in June 2014, because she did not take her anxiety medication early enough. Once she started taking it well in advance of the start of her shift, she was on time for work. The claimant was tardy on July 29 and 30, 2014, after receiving the June 25, 2014, written warning. She does not remember why she was tardy. On August 1, 2014, the claimant did not feel well. She thought the employer would force her to work even though she was sick but she did not ask the employer about this. The claimant appeared for work approximately eight minutes tardy. On August 1, 2014, the employer terminated the claimant for excessive tardiness.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(7) provides:

(7) 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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the absences on July 29 and 31, 2014, were not excused. The final absences, in combination with the claimant's history of unexcused absenteeism, are considered excessive. Benefits are withheld.

#### **DECISION:**

The representative's August 25, 2014, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit, amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs