

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**JACLINE PAUL**  
Claimant

**APPEAL NO. 18A-UI-06194-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RYDER INTEGRATED LOGISTICS INC**  
Employer

**OC: 05/06/18**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jacline (claimant) appealed a representative's June 1, 2018, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Ryder Integrated Logistics (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 21, 2018. The claimant participated personally. The employer was represented by Jackie Boudreaux, Hearings Representative, and participated by Jenna Tate, Human Resources Representative.

**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 September 11, 2017, as a full-time material handler. The claimant electronically signed for receipt of the employer's handbook on September 11, 2017. The employer's policy stated that employees would be terminated if they accrued six attendance occurrences in a twelve month rolling period. The claimant did not read this part of the handbook. The employer had a process for employees to complete if they forgot to punch in at the start of their shift. The claimant understood and used the missed punch process.

On December 11, 2017, the claimant properly reported she was leaving work early due to illness. The employer issued her a written warning for attendance shortly after December 11, 2017. On December 14, 2017, the claimant properly reported her absence due to a medical issue. On February 22, 2018, the claimant clocked in six minutes late for work. On March 30, 2018, the claimant clocked in fourteen minutes late for work.

On April 5 and 6, 2018, the claimant properly reported her absence due to her attendance in criminal court. On April 10, 2018, the employer issued the claimant a final written warning for attendance. The employer notified the claimant that further infractions could result in termination from employment. The employer and claimant discussed the claimant's options of taking a personal leave of absence for her court days. The leave could not be intermittent and could not extend longer than ninety days. The employer agreed to accommodate the claimant as soon as the claimant gave the employer the start and end date of the leave.

On April 30, 2018, the claimant was forty-two minutes late for work due to her court appearance. On May 1, 2018, the claimant clocked in eight minutes late for work. On May 2, 2018, the claimant clocked in nine minutes late for work. On May 4, 2018, the employer terminated the claimant for excessive absenteeism after having been warned.

### **REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 final absence was not excused. The final absence, in combination with the claimant's history of unexcused absenteeism, is considered excessive. Benefits are withheld.

**DECISION:**

The representative's June 1, 2018, decision (reference 03) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. 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/rvs