

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLLEEN M BARNES**  
Claimant

**APPEAL NO. 10A-EUCU-00025-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTRONIC DATA SYSTEMS CORP**  
Employer

**OC: 05/31/09**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated January 7, 2010, reference 03, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on February 16, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a customer service representative from April 14, 2008, to June 3, 2009. The employer discharged her on June 3, 2009, after she was late for work due to car problems. The claimant had properly notified her supervisor that she would be late for work and had been assured that it would not be a problem. The claimant had not received any prior discipline regarding her attendance.

The claimant filed a new claim for unemployment insurance benefits with an effective date of May 31, 2009, after her employment ended. A notice of claim was mailed to the employer's last-known address of record on June 9, 2009. The employer did not protest the claim within 10 days.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code section 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the

employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The claimant was late for work for unavoidable reasons and properly notified her employer that she would be late. Additionally, it appears the agency permitted the employer to protest the claim beyond the statutory time limit.

**DECISION:**

The unemployment insurance decision dated January 7, 2010, reference 03, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs