

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**TONYA M SCHRANDT
101 NW KLINE ST
ANKENY IA 50023**

**DAIRY QUEEN
ATTN STEVEN R WILSON
421 OAK ST
IOWA FALLS IA 50126-2339**

**Appeal Number: 05A-UI-11322-CT
OC: 10/09/05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Tonya Schrandt filed an appeal from a representative's decision dated October 25, 2005, reference 01, which denied benefits based on her separation from Dairy Queen. After due notice was issued, a hearing was held by telephone on December 5, 2005. Ms. Schrandt participated personally. The employer participated by Rosalie Wilson, Co-Owner.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Schrandt began working for Dairy Queen on April 18, 2005 as a cashier and performed other duties as assigned. She worked from 25 to 32 hours each week. On June 26, she called the employer to report that she would be absent

on June 27 because her niece was having surgery. Ms. Schrandt was not scheduled to work on June 28 but was scheduled to be at work at 11:00 a.m. on June 29.

Ms. Schrandt stayed overnight with her fiancé in Ankeny on June 28. She left Ankeny at 8:00 a.m. on June 29. Shortly before 11:00 a.m., her sister-in-law telephoned the employer to report that Ms. Schrandt would be absent due to illness. Absences are to be reported at least one hour before the start of the shift. The employer called Ms. Schrandt's home and the person answering indicated she was not at home and had just left the hospital. The decision was made at that point to discharge Ms. Schrandt. She had been absent on two other occasions during the course of her employment, both due to illness. She had not received any written warnings but had been advised that she needed to be at work.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Schrandt was separated from employment for any disqualifying reason. 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). Ms. Schrandt was discharged because of her attendance. Her absences before June 29 are excused, as they were due to illness and were properly reported.

Ms. Schrandt was verbally warned that she needed to be at work. Although she had not received any written warnings, the verbal warning should have been sufficient to put her on notice that her attendance was unacceptable. The administrative law judge appreciates that Ms. Schrandt wanted to be at the hospital when her niece had surgery. However, because the surgery was not for a member of her immediate family, the absence was for personal reasons. Therefore, the administrative law judge considers it unexcused. The evidence does not establish any reasonable cause for the absence of June 29.

Ms. Schrandt testified that she left Ankeny at 8:00 a.m. on June 29 for the 90-minute drive to Iowa Falls where she worked. Although she was in Iowa Falls by 10:00 a.m., she made other stops rather than proceeding to work. The sister-in-law spoke to the employer and gave the impression that Ms. Schrandt would be absent that day. If she was going to arrive at work on time, there would seemingly be no need to contact the employer five minutes before the start of the shift. Moreover, the grandmother indicated to the employer that Ms. Schrandt had just left the hospital when the employer called Ms. Schrandt's home after speaking with the sister-in-law. Ms. Schrandt's testimony that she had to stop five times between Ankeny and Iowa Falls because of morning sickness was less than credible. She testified that she did not have any prior delays because of morning sickness. On the whole, the administrative law judge believes Ms. Schrandt gave false information regarding her absence of June 29. Therefore, the absence is unexcused.

The administrative law judge concludes that Ms. Schrandt's two consecutive unexcused absences and the falsification of the reason for the June 29 hearing constituted disqualifying misconduct. Accordingly, benefits are denied.

DECISION:

The representative's decision dated October 25, 2005, reference 01, is hereby affirmed. Ms. Schrandt was discharged for misconduct in connection with her employment. Benefits are

withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjw