

be able to report to work. The claimant did call Kauffman each day except when Kauffman was absent and then she spoke to a substitute supervisor twice. When she reported for work on February 15, she found a pink note on her locker indicating the supply room should remove the equipment from her locker since she had been fired. At that point the equipment was already missing from the locker and she could not enter the production area. The claimant attempted to speak to someone in personnel per Kauffman's advice but waited 45 minutes without any contact. She eventually reported to the accounting office to pick up her final check. Kauffman did not participate in the hearing.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

871 IAC 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).

Reported absences related to illness are excused for the purpose of the Iowa Employment Security Act. A failure to report to work without notification to the employer is generally considered an unexcused absence; however, the claimant reported each absence as instructed and the employer has failed to produce sufficient evidence to rebut that testimony. Thus, all absences are excused, no misconduct has been established and benefits are allowed.

DECISION:

The August 29, 2005, reference 02, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

dml/tjc