

been authorized by the employer. It preceded by one day the beginning of a scheduled vacation. Ms. Curiel had received other warnings for absences, but all of them were for medical conditions involving herself or her child.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that the claimant was discharged for misconduct in connection with her work. It does not.

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.

Excessive unexcused absenteeism is misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). On the other hand, absence due to medical conditions properly reported to the employer cannot be held against an employee for unemployment insurance purposes. See 871 IAC 24.32(8). The record before the administrative law judge indicates that all absences except the final one were for medical conditions. A single unexcused absence is not sufficient to establish excessive unexcused absenteeism. See Sallis v. Employment Appeal Board, 437 N.W.2d 895 (Iowa 1989). Based on the evidence in this record, no disqualification may be imposed.

DECISION:

The unemployment insurance decision dated October 3, 2005, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

dj/kjw