

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KAREN L STAATS**  
Claimant

**APPEAL NO. 08A-UI-03281-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LUTHERAN HOMES SOCIETY**  
Employer

**OC: 03/02/08 R: 04  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Lutheran Homes Society filed an appeal from a representative's decision dated March 26, 2008, reference 01, which held that no disqualification would be imposed regarding Karen Staats' separation from employment. After due notice was issued, a hearing was held by telephone on April 16, 2008. Ms. Staats participated personally. The employer participated by Kris Pederson, Human Resources, and Terri Verwers, Director of Nursing. Exhibits One through Five were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Ms. Staats was separated from employment for any disqualifying reason.

**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. Staats was employed by Lutheran Homes Society from February 14, 2006 until March 3, 2008 as a full-time certified nursing assistant. She was discharged because of her attendance. The final absence that prompted the discharge occurred on February 29, 2008, when Ms. Staats properly reported her intent to be absent due to illness. She presented a doctor's statement for the absence when she returned to work on March 3. She was discharged the same day.

All of Ms. Staats' absences were reported to be due to illness. She presented doctor's statements when required. All of her absences were properly reported to the employer. Ms. Staats received warnings about her attendance on January 8, February 5, April 6, and November 11, 2007. She received a final written warning on January 24, 2008. Attendance was the sole reason for the discharge.

**REASONING AND CONCLUSIONS OF LAW:**

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). An individual who was discharged because of attendance is disqualified from receiving benefits if she was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. The administrative law judge is not bound by an employer's designation of an absence as unexcused.

The record reflects that all of Ms. Staats' absences were for medical reasons and all were properly reported to the employer. As such, all of the absences are excused. Excused absences may not form the basis of a misconduct disqualification, regardless of how excessive. The fact that Ms. Staats had received warnings about her attendance does not alter the fact that the absences were excused absences within the context of the Iowa Employment Security Law. While the employer may have had good cause to discharge Ms. Staats, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

**DECISION:**

The representative's decision dated March 26, 2008, reference 01, is hereby affirmed. Ms. Staats was discharged, but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw