

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**EBONI N JACKSON**  
Claimant

**ROSS HOLDINGS LLC**  
Employer

**APPEAL 15A-UI-09611-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/02/15**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Admin. Code r. 871-24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the August 20, 2015, (reference 03) unemployment insurance decision that denied benefits based upon misconduct. The parties were properly notified about the hearing. A telephone hearing was held on September 10, 2015. Claimant participated. Employer participated through director of operations Shannon Schmidt.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a telephone service representative from September 16, 2013, and was separated from employment on September 29, 2014, when she was terminated.

On August 11, 2014, employer gave claimant a written warning for working only 83 percent of her scheduled hours. Claimant was warned that further absenteeism could result in further discipline including termination.

Claimant had no-call/no-show absences on September 18, 20, 23, 25, and 17, 2014. Claimant called to report her absence and was absent on September 22 and 24, 2014. On September 29, 2014, when claimant called in to report her absence, director of operations Schmidt terminated her employment.

Claimant was absent in September due to her grandfather being hospitalized. However, claimant never informed employer of the reason for her absences. Had claimant informed employer of the reason for her absence, her absences would have been excused.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 Dep't of Job Serv.*, 350 N.W.2d 187 (Iowa 1984). Absences due to illness or injury must be properly reported in order to be excused. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

An employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. The employer has established that the claimant was warned that further unexcused absences could result in termination of employment. Claimant's final absences were not excused as many were not properly reported and she did not explain to employer the reason for her absences. The final absences, in combination with the claimant's history of unexcused absenteeism, is considered excessive.

**DECISION:**

The August 20, 2015, (reference 03) unemployment insurance decision is affirmed. Claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Decision Dated and Mailed

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