

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY C KAMPFE
Claimant

APPEAL NO: 13A-UI-00303-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC
Employer

OC: 12/09/12
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 31, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Kyle Plucker, the human resource manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on May 20, 2011. She worked as a full-time cashier in the lumber department. The employer's written attendance policy informs employees that after they have six unexcused absences in a year, they must provide the employer a doctor's note if they have additional health-related absences. With a doctor's statement, the employer considers these additional health-related absences excused instead of unexcused.

On August 22, 2012, the claimant received a final written warning for attendance issues. As of August 22, the claimant had five unexcused absences. After the claimant received the final warning, she reported on September 26, October 25, and November 6, 13 and December 5 she was unable to work. The claimant reported she had been ill, but she did not provide any doctor's statement for any of these absences. If the claimant had provided a doctor's statement, the employer would have excused these additional absences instead of considering them as unexcused.

On December 6, 2012, the employer discharged the claimant because of on-going unexcused absenteeism after she received the August 22, 2012 final written warning.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

Since the claimant did not testify at the hearing, it is not known why she continued to miss work or did not provide the employer with any doctor's statement after August 22. Based on the evidence presented during the hearing, the employer discharged the claimant for excessive, excused absenteeism. The employer discharged the claimant for reasons amounting to work-connected misconduct. As of December 9, 2012, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 31, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 9, 2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs