

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SANDRA K DENNIS**  
Claimant

**APPEAL NO. 07A-UI-02766-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 02/04/07 R: 03**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Sandra Dennis filed an appeal from a representative's decision dated February 28, 2007, reference 01, which denied benefits based on her separation from The University of Iowa (UI). After due notice was issued, a hearing was held by telephone on April 11, 2007. Ms. Dennis participated personally. The employer participated by Nancy Kroeze, Clerk, and Alicia Dohrer-O'Leary, Office Coordinator.

**ISSUE:**

At issue in this matter is whether Ms. Dennis 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. Dennis began working for UI on September 7, 2004 and was employed full time as a patient account representative. She was discharged due to her attendance. Absences are to be reported prior to the start of the work shift. There were a substantial number of occasions on which Ms. Dennis failed to give the required notice.

Ms. Dennis called after the start of her shift on June 6, 2006 to report that she would be late. She reported to work 15 minutes late because of illness. On June 12, she called after the start of her shift to report that she would be late because she was going to see the doctor. She called after the start of her shift on July 3 to report that she would be late because she needed to pick up medications. At approximately noon that day, she called to report that she had had blood work done and was going to remain home the rest of the day. She called after the start of her shift on July 5 to report that she would not be in until noon because her doctor's appointment had been changed. She called back later to say she would not be in due to illness. Ms. Dennis was approximately 30 minutes late on July 6 but did not call in advance to report the intended tardiness. She was ten minutes late on August 29 but advised the employer that she had reported to work on time but spent ten minutes in the restroom due to illness. She made the same report concerning her tardiness of August 31.

Ms. Dennis was late reporting to work on September 11 and September 12 but did not call in advance on either date. Both incidents were attributed to illness. She called after the start of her shift on September 13 to report that she would be in at noon. She called at noon to say she would not be in. She called after the start of her shift on October 6 to report that she would be late due to illness. On October 12, she called after the start of her shift to say she would be in at noon but did not report to work at all. Ms. Dennis called after the start of her shift on October 17 to say she would be late because of a flat tire. At 8:45 that morning, she received a call from her daughter's school indicating the daughter was ill and would need to be picked up. Ms. Dennis did not call the employer until 10:30 a.m. to report that she would not be in that date.

On October 19, Ms. Dennis called after the start of her shift to report that she would be late due to a power outage. She was ten minutes late on October 20 because she went to a different office to inquire about a problem with her pay. She called after the start of her shift on October 24 and indicated she had been on the phone with her doctor. She indicated she would be in later. She called later that morning to report that she would not be in because of additional medical testing. Ms. Dennis was given a written warning regarding her attendance on October 25, 2006.

Ms. Dennis called after the start of her shift to report an absence on October 30. She indicated the call had been delayed because she was in the bathroom. She called after the start of her shift on November 7 to say she had been on the phone with her doctor. She did not report to work until 11:00 a.m. She called after the start of her shift on November 17 to report that she had had an allergic reaction to medication and could not talk. The problem had started at approximately 6:00 that morning and she called her doctor at 6:30 a.m. Ms. Dennis received another written warning on November 21, along with a one-day suspension.

Ms. Dennis called after the start of her shift on December 13 to report that she would be late because of car problems. She arrived at work at 9:30 a.m. She received a written warning and three-day suspension on December 15. Ms. Dennis called after the start of her shift on January 2 and January 4. She indicated on January 4 that she had just got off the phone with her doctor and that medications made her sleepy. She was given a written warning and five-day suspension on January 5. The decision to discharge was prompted by the fact that Ms. Dennis called at 7:53 a.m., after the start of her shift, on January 26 to report an absence. She indicated she was taking medications that made her sleepy.

Ms. Dennis usually left home at 7:00 a.m. in order to be at work for her 7:30 a.m. shift. She had numerous medical issues during the course of her employment with UI. Attendance was the sole reason for her February 2, 2007 separation from employment.

#### **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. Tardiness in reporting to work is considered a limited absence from work.

Ms. Dennis' absence of October 20 is unexcused. She took care of a personal matter regarding her pay before coming to work but had not notified the employer of her intent to be late. Her tardiness of December 13 is unexcused as it was due to a transportation issue. Absences

caused by personal matters, including transportation, are not excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Ms. Dennis' remaining absences from work were all for reasonable cause. However, the absences were not timely reported. The administrative law judge must determine if she had good cause for not reporting her absences timely.

The employer only required that Ms. Dennis report her absences before the start of her shift. It was her contention that the failure to give timely notice was due to illness or the fact that she was on the phone with her doctor. It was her testimony that she would usually leave home at 7:00 a.m. Presumably she would know by that time whether she was feeling well enough to report for work. If she knew at 7:00 a.m. that she was not well enough to work, she certainly had sufficient time, approximately 30 minutes, in which to notify the employer that she would be absent or late. In spite of warnings and suspensions, Ms. Dennis continued to report absences after the start of her shift.

There were a number of occasions on which Ms. Dennis could have called the employer earlier than she did. On October 17, she initially indicated she would be absent because of a flat tire. Although she received a call from her daughter's school at 8:45 a.m., she did not re-contact the employer until 10:30 a.m. If she was home to receive a call at 8:45, she clearly had not left for work immediately after AAA repaired the flat tire. On October 24, she reported that she was on the phone with her doctor at 7:30 a.m. but did not re-contact the employer until 10:16 a.m. to report that she would not be in. On November 7, she reported that she was on the phone with her doctor at 7:32 a.m. but did not appear for work until 11:00 a.m. The administrative law judge is not inclined to believe she was on the phone with her doctor for extended periods of time on October 24 and November 7. Ms. Dennis called almost one hour after the start of her shift on November 17 to report that she could not talk due to an allergic reaction to medication. However, she, or someone acting on her behalf, was able to speak to her doctor at 6:30 a.m. Therefore, she could have made some effort to contact the employer before her call at 8:24 a.m.

After considering all of the evidence, the administrative law judge concludes that Ms. Dennis has not established good cause for her repeated failure to give timely notice of her absences. The administrative law judge appreciates that she had a number of health issues. However, this would not relieve her of the responsibility to notify the employer in a timely fashion if she could not be at work due to her health issues. She was clearly on notice that her attendance was jeopardizing her continued employment with UI. She did not take those steps necessary to conform to the employer's expectations. Her actions constituted a substantial disregard of the standards she knew the employer expected of her. For the reasons cited herein, it is concluded that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

#### **DECISION:**

The representative's decision dated February 28, 2007, reference 01, is hereby affirmed. Ms. Dennis was discharged by UI for misconduct in connection with her employment. Benefits

are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, 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/pjs