

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIJA KARLIZA
Claimant

APPEAL NO. 11A-UI-00732-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPS NOW HEARTLAND LLC
Employer

OC: 12/05/10
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 14, 2011 determination (reference 04) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Mary Burkett, the account manager, testified on the employer's behalf. Miriam Aruguete represented the employer. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The employer assigned the claimant to a job on August 19, 2010. This client had a five-strike policy. This meant that if a person working for the client had five absences, the client asked the employer to remove the person from the client's assignment. The claimant understood this policy.

During her employment, the claimant notified the employer whenever she was unable to work as scheduled. She was absent on October 11 and 14, November 3 and 9, and December 2 and 4. She was unable to work these days because her son was ill and she did not have anyone to stay at home with him when he was ill. On November 3, Burkett talked to the claimant and told her that her job was in jeopardy as a result of her on-going absences.

On December 7, 2010, the client asked the employer to remove the claimant from their assignment because she had been absent six times. The employer removed the claimant from the assignment at the client's request.

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).

The employer established justifiable business reasons for ending the claimant's assignment. Based on the number of her absences, she was not a reliable employee and violated the client's attendance policy. However, the claimant did not commit work-connected misconduct. She properly notified the employer when she was unable to work and established reasonable grounds for missing work—taking care of her sick child. As of December 5, 2010, the claimant is qualified to receive benefits.

The employer is not one of the claimant's base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's January 14, 2011 determination (reference 04) is affirmed. The employer discharged the claimant from an assignment for justifiable business reasons. These reasons do not, however, constitute work-connected misconduct. As of December 5, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account will not be charged during the claimant's current benefit year.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw