

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**CHAQUITA A MOORE  
309 LAFAYETTE ST  
WATERLOO IA 50703**

**BOSTON WINDOW CLEANING INC  
THE MILLARD GROUP  
7301 N CICERO AVE  
LINCOLNWOOD IL 60712**

**BOSTON WINDOW CLEANING INC  
% PERSONNEL PLANNERS INC  
PO BOX 803937  
CHICAGO IL 60680-3937**

**Appeal Number: 04A-UI-08010-CT  
OC: 06/13/04 R: 03  
Claimant: Respondent (2)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Boston Window Cleaning, Inc. filed an appeal from a representative's decision dated July 13, 2004, reference 04, which held that no disqualification would be imposed regarding Chaquita Moore's separation from employment. After due notice was issued, a hearing was held by telephone on August 16, 2004. The employer participated by Claudine Davis, Office Manager, and was represented by Laura Gawronski of Personnel Planners, Inc. Ms. Moore did not respond to the notice of hearing.

#### FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Moore was employed by Boston Window Cleaning, Inc. from May 1 until June 15, 2004 as a full-time cleaner. She was absent from work on May 14 due to illness and May 15 due to a dental appointment. She received a verbal warning about her attendance on May 21. Ms. Moore was then absent on May 25 and 26 due to illness. On June 9, she had someone else call in for her to state that she was at the hospital. She was verbally warned that she needed to personally report absences.

Ms. Moore was scheduled to report for her evening shift on June 9, but called to say that she had been in an auto accident but would be in for work. She did not report for work or re-contact the employer. On June 11, the supervisor notified several individuals that they could go home early. Ms. Moore was not among those individuals. However, when the employer went to look for her, she could not be found. She had left with the employees who were allowed to leave early. On June 15, the supervisor was looking for Ms. Moore to check her work. It was determined that she had turned her keys in at 10:05 p.m. but her shift did not end until 11:30 p.m. At approximately 10:40 p.m., Ms. Moore was located in the locker room writing a letter and talking on her cell phone. She was discharged at that time.

Ms. Moore has received a total of \$646.00 in job insurance benefits since filing her claim effective June 13, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Moore was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Part of the reason for the discharge was the fact that Ms. Moore left work early on two occasions without permission, June 11 and June 15. Although she had not been warned about such conduct, she knew or should have known that she could not leave work early without first checking with a supervisor. She left over one hour early on the last incident. Leaving work early without permission constitutes a substantial disregard for the employer's standards. For the above reasons, benefits are denied.

Ms. Moore has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code Section 96.3(7).

#### DECISION:

The representative's decision dated July 13, 2004, reference 04, is hereby reversed. Ms. Moore was discharged 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. Ms. Moore has been overpaid \$646.00 in job insurance benefits.

cfc/kjf