

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RISA N PUTNAM**  
Claimant

**HARVEYS BR MANAGEMENT CO INC  
HARVEYS CASINO RESORTS**  
Employer

**APPEAL NO. 14A-UI-06056-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/20/14  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism/Tardiness

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated May 30, 2014, reference 03, that amends 01, that held she was discharged for excessive unexcused absenteeism on April 9, 2014, and benefits are denied. A hearing was held on July 17, 2014. The claimant participated. Thomas Kuiper, Representative, Vicki Brousard, HR, and Rory De Santiago, Racing Director, participated for the employer.

The employer written documents were not received as evidence, because they were not timely submitted to UI Appeals for dissemination to claimant and they were not timely submitted to claimant directly.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds that: The claimant was hired on March 27, 2012 and last worked as a full-time announcer on April 2, 2014. The claimant received the employer attendance policy that provides an accumulation of ten attendance points within a twelve-month period can result in employment termination.

The employer followed progressive discipline by giving claimant coaching and a written warning for attendance points. The employer issued claimant a final warning for eight attendance points at February 27, 2014.

Claimant received an eviction notice and she requested time off from work for April 4, 5 and 6. The employer denied April 4. Claimant called in absences from work for April 4 and April 5 and she received two more points bringing her to total to ten points. The employer advised claimant she was terminated on April 9 for accumulating ten points. Claimant did not contest her points and she did not seek the employer board of review on her termination.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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 administrative law judge concludes employer established misconduct in the discharge of the claimant on April 9, 2014, for excessive "unexcused" absenteeism.

The employer followed its progressive disciplinary process from coaching to a final warning to let claimant know she was at eight attendance points. Although claimant had some issue with this point total she did not contest it to the point of correction.

The final warning put claimant at eight points with a warning that additional points could lead to termination. The employer offered credible testimony claimant incurred one point for an absence on April 3 and one point for April 4 that brought her to the ten-point termination threshold. Although claimant questioned the April 4 absence in this hearing, she did not with the employer at discharge. The lack of challenge supports employer that she was not excused from work for April 4. Job disqualifying misconduct is established.

**DECISION:**

The decision of the representative dated May 30, 2014, reference 03, that amends 01, is affirmed. The claimant was discharged for misconduct in connection with employment on April 9, 2014. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/css