

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LASHAY M MORRIS
Claimant

MIDWEST PROFESSIONAL STAFFING LLC
Employer

APPEAL NO. 13A-UI-10398-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/14/13
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated August 29, 2013, reference 08, that held he was discharged for excessive unexcused absenteeism on August 2, 2013 and benefits are denied. A hearing was held on October 7, 2013. The claimant did not participate. Kelly Palazzo, Staffing Manager, participated for the employer.

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 worked as a full-time as a data entry clerk on assignment at Jacobsen from April 17, 2013 to August 2. The claimant received verbal warnings about her absenteeism. Claimant was a no-call no-show to work on July 17. After reviewing her absence record, she was discharged on August 2 for excessive absenteeism.

Claimant failed to respond to the hearing notice with a call in to UI Appeals to participate. The department record (APLT) does not show claimant called with a phone number requesting to participate.

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.

871 IAC 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 that the employer failed to establish misconduct in the discharge of the claimant on August 2, 2013, for excessive "unexcused" absenteeism.

The employer could not offer any record of tardiness or absence date(s) after January 2009.

DECISION:

The decision of the representative dated August 29, 2013, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on August 2, 2013.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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