

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BETH MORRIS
Claimant

APPEAL NO: 07A-UI-04863-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JEFFREY BASSMAN DDS PC
Employer

OC: 03/04/07 R: 12
Claimant: Respondent (1)

871 IAC 23.43(9) – Combined Wage Claim

STATEMENT OF THE CASE:

Jeffrey Bassman, D.D.S., P.C. (employer) appealed a representative's May 11, 2007 decision (reference 03) that concluded its account would not be relieved of charges in conjunction with a combined wage claim regarding Beth Morris (claimant). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 28, 2007. The claimant and the employer both participated in the hearing. Administrative notice was taken of two representative's decisions issued in the state of Illinois on March 24, 2007. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should employer's Iowa account be relieved of charges for benefits which might be paid to the claimant by another state.

FINDINGS OF FACT:

The claimant started working for the employer on March 14, 2006. She worked part time (approximately 17 hours per week) as a dental assistant and occasional receptionist. Her regular work schedule was Tuesday and Wednesday from 8:45 a.m. until done, usually approximately 5:00 p.m. Her last day of work was February 27, 2007. The employer discharged her on February 28, 2007. The reason asserted for the discharge was absenteeism.

Prior to February 28 the claimant had missed about six or seven days of work due to illness. This caused concern to the employer regarding her attendance, which Dr. Bassman did communicate to the claimant. On February 28 the claimant did call in an absence due to illness prior to the start of her shift. While she did not realize what the illness was at the time, it was ultimately diagnosed as pneumonia. Dr. Bassman determined that the claimant's attendance issues were becoming unworkable for the employer's operation, and informed her that her employment was being terminated.

The claimant established an unemployment insurance benefit year effective March 4, 2007 in her home state of Illinois. Since the claimant had base period wages from the employer in the

state of Iowa, the state of Illinois notified the state of Iowa of the potential of benefits that might be paid to the claimant in that state which could be then charged back to the employer's Iowa account, thus leading to the issuance of the Iowa representative's decision in this case which had concluded based upon the facts of the separation that the employer's Iowa account would not be relieved of any charges for any benefits paid to the claimant through her Illinois claim. The state of Illinois issued two representative's decisions regarding the parties, one concluding that the separation was not disqualifying under Illinois so that the claimant was eligible for benefits, and another concluding that the claimant was at least for a period of time not able and available for work and was therefore not qualified for benefits, and no benefits have been paid to the claimant on her Illinois claim. The current status of the claimant's Illinois claim thus appears to be that while she may have an underlying entitlement to unemployment insurance benefit, she is currently not eligible to receive benefits unless or until she takes further action to demonstrate that she is now able and available for work. While not binding on the parties, the claimant has asserted that she does not intend to take such further action on her Illinois claim.

REASONING AND CONCLUSIONS OF LAW:

A "combined wage claim" is a claim filed by the state in which the claimant has a primary unemployment insurance claim against another state in which the claimant has base-period wages under the interstate wage combining plan which allows workers who lack qualifying wages in any one state, or who qualify for less than maximum benefits in one or more states, to qualify or to increase benefits by combining wages from all states. 871 IAC 24.1(25)b(5); 871 IAC 24.1(64)c. On a combined wage claim, an Iowa employer would only be relieved of charges if the facts would support a relief of charges under Iowa law. 871 IAC 23.43(9). Iowa Code § 96.7-2-a(2) provides that the amount of benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred unless the individual has been discharged for work-connected misconduct or voluntarily quit employment without good cause attributable to the employer or refused suitable work without good cause.

Iowa Code § 96.5-2-1 disqualifies an individual if the individual was discharged for work-connected misconduct. Under Iowa law, absenteeism can constitute misconduct, however, to be misconduct, absences must be both excessive and unexcused. Absences due to properly reported illness cannot constitute work-connected misconduct since they are not volitional, even if the employer was fully within its rights and had a good business reason to discharge the claimant for the absenteeism. Cosper, supra. Because the final absence here was related to properly reported illness or other reasonable grounds, no final or current incident of unexcused absenteeism occurred which establishes work-connected misconduct and no disqualification would have been imposed on the claimant had the claim been filed in Iowa. Therefore, the reasons for the separation would not relieve the employer's Iowa account from charge for any benefits that might be paid to the claimant in the state of Illinois. However, if the claimant takes no further action in Illinois to restore her eligibility in that state, there will be no benefits paid in Illinois and therefore no charges against the employer's Iowa account.

DECISION:

The representative's May 11, 2007 decision (reference 03) is affirmed. The employer's Iowa account is not relieved of charges for any benefits that might be paid to the claimant in the state

of Illinois as given the reasons for the separation the employer would be liable for charges under Iowa law had the claimant filed an Iowa claim.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs