

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA R PETERS
Claimant

APPEAL NO. 09A-UI-08641-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

PINERIDGE FARMS
Employer

**Original Claim: 05/10/09
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Anna Peters filed an appeal from a representative's decision dated June 10, 2009, reference 01, which denied benefits based on her separation from Pineridge Farms. After due notice was issued, a hearing was held on July 13, 2009, in Des Moines, Iowa. The employer participated by John Anderson, Human Resources Manager. Exhibits One and Two were admitted on the employer's behalf. Ms. Peters did not appear for the hearing. The notice of hearing directed to her last known address of record was returned by the postal service with a notation that it could not be forwarded. She provided a new address when she accompanied another individual to a later hearing on July 13, 2009.

ISSUE:

At issue in this matter is whether Ms. Peters was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Peters began working for Pineridge Farms on February 4, 2009 as a full-time production employee. She was late reporting to work on February 26, March 13, March 26, March 31, April 8, April 29, May 1, and May 4. She received a written warning concerning her attendance on May 4. Ms. Peters called on Friday, May 8, to report that she would be absent. There was no work on Monday, May 11.

Ms. Peters reported to work on May 12 and was to receive a written warning and a one-day suspension as a result of the May 8 absence. A short time after she reported to work, she told the employer she was leaving with another employee, James Green, to drive him to the hospital to see his niece. Mr. Green had just quit his job with Pineridge Farms. As a result of her decision to leave work on May 12, Ms. Peters was discharged. Attendance was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from benefits if she was excessively absent on an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and must be properly reported. 871 IAC 24.32(7). The administrative law judge is not bound by an employer's designation of an absence as unexcused. Tardiness in reporting to work is considered a limited absence from work.

Ms. Peters only worked for Pineridge Farms for slightly over three months. During that time, she was late reporting to work eight separate times. She was warned about her attendance on May 4. In spite of knowing that her continued employment was in jeopardy, she chose to leave work on May 12. Absences due to matters of personal responsibility are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Ms. Peters' decision to drive her friend to see his niece was a personal matter, and therefore the absence of May 12 is unexcused.

Ms. Peters had a total of nine periods of unexcused absenteeism during three months. The administrative law judge considers this excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards an employer has the right to expect. As such, it constitutes disqualifying misconduct. Accordingly, Ms. Peters is not entitled to job insurance benefits.

DECISION:

The representative's decision dated June 10, 2009, reference 01, is hereby affirmed. Ms. Peters was discharged for disqualifying misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw