

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELINDA K IRWIN
Claimant

APPEAL NO. 09A-UI-06754-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARDIOVASCULAR MEDICINE PC
Employer

**Original Claim: 04/05/09
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 27, 2009, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on May 28, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. Michelle Hetrick participated in the hearing on behalf of the employer with a witness, Pat Ragan.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full time for the employer as a health information management clerk from May 22, 2008, to March 30, 2009. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify their supervisor one hour before their shift started if they were not able to work as scheduled.

The claimant had been warned about her repeated unexcused absences and tardiness on December 4 and December 19, 2008. On December 17, the claimant was absent from work without proper notice to the employer because she overslept. On February 18, 2009, the claimant was warned and placed on probation because she was late 12 times and absent twice since the December 19 warning. She was again placed on probation on March 18, 2009, because of being late to work on March 6, 10, and 13.

The claimant was late for work on March 23. The claimant failed to report to work as scheduled at 8:30 a.m. on March 27. She was upset about conditions at work and did not feel well. She did not call her supervisor about her absence until 4:30 p.m. that day. She willfully violated the call-in procedures.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

The unemployment rules state that 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. 871 IAC 24.32(7).

The claimant's repeated absences and tardiness after multiple warnings about her attendance is work-connected misconduct. She acted irresponsibly on March 27 when she was absent and did not notify the employer. Her testimony that she was too sick to call her supervisor is not believable, as using the phone is not a demanding task and takes just a minute.

DECISION:

The unemployment insurance decision dated April 27, 2009, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw