

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**CHAEI K MEYER**  
Claimant

**APPEAL NO: 18A-UI-11042-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 10/07/18**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the November 2, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 28, 2018. The claimant participated in the hearing. Jill Howard, Store Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time cashier for Casey's from January 29, 2018 to October 2, 2018. She was discharged from employment due to a final incident of absenteeism that occurred on September 29, 2018.

The claimant was scheduled to work at 7:00 a.m. September 29, 2018. She was not scheduled September 30, 2018. She wanted to visit with some out of town family that was going to be in the area September 29 and 30, 2018. On September 28, 2018, the claimant tried to find a replacement but was unsuccessful. She texted Store Manager Jill Howard at 11:36 p.m. September 28, 2018, she would not be in September 29, 2018. Ms. Howard was in bed when the claimant sent the text and did not see it until the following day. Under the employer's policy, employees must call to report an absence and are not allowed to text the manager. They are also required to find a replacement worker if they are going to be absent. The claimant was next scheduled to work October 2, 2018, and arrived 15 minutes late and Ms. Howard notified her that her employment was terminated.

The claimant received a written warning for excessive absenteeism May 21, 2018, following absences April 30 and May 7, 2018, due to illness; leaving three hours early May 13, 2018, for Mother's Day; an absence May 15, 2018, because of a parade; being tardy one hour and

two minutes May 16, 2018, because she overslept; leaving one hour and 18 minutes early May 17, 2018, because she did not feel well; and not working May 18 or May 20, 2018.

The claimant accumulated eight other absences following the May 21, 2018, written warning but provided doctor's notes for those absences.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for disqualifying job misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins v. Iowa Department of Job Service*, 350 N.W.2d 187 (Iowa 1984).

The claimant did not want to work September 29, 2018, because family friends were in town. The friends were going to be in town September 30, 2018, as well, however, and the claimant was not scheduled to work that day, giving her time to spend with her friends. The claimant did not find a replacement worker or properly notify the employer of her absence, as a text at 11:36 p.m. the night before her 7:00 a.m. shift was certainly not sufficient.

The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of absenteeism, is considered excessive. Therefore, benefits are denied.

**DECISION:**

The November 2, 2018, reference 01, decision is affirmed. The claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/scn