

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMERIA R JENKINS**  
Claimant

**APPEAL NO: 14A-UI-02964-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE HON COMPANY**  
Employer

**OC: 02/16/14**  
**Claimant: Appellant (2)**

Iowa Code 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's March 10, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the April 9 hearing. Deniece Norman, a representative with Employers Edge, appeared on the employer's behalf. Cherie McClusky testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 2005. She worked as a full-time work cell operator. The employer's no-fault attendance policy informs employees they can be discharged for accumulating nine attendance points in a rolling calendar year.

The claimant did not receive a written warning about her attendance until January 27, 2014. The claimant received the January 27 written warning after she called in sick on January 24, 2014. By the time the claimant received the January 27 written warning, she only had ½ attendance credit left. The January 27 warning was the last step an employee received before they were discharged. When the claimant asked why she had not received earlier warning, the employer told her this occurred because the employer was behind in giving employees warnings. Based on the number of attendance points the claimant had accumulated as of January 27, she could not be absent from work until May 10, 2014.

On February 17, 2014, there was a snow and ice storm. The road the claimant drove to get to work was closed. She called the employer before the start of her shift at 3 p.m. She talked to M., who was just below the claimant's supervisor. HE told the claimant not to worry about coming to work because the roads were too bad.

On February 18, the claimant was able to get to work. The employer discharged the claimant on February 18 and told her it was because she had not called or reported to work on February 17. After the claimant explained that she had talked to M., the employer still discharged her because she was assessed points that totaled nine or more in a rolling calendar year. Based on the employer's attendance policy, the claimant violated the employer's attendance policy by having excessive absenteeism.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. Iowa Admin. Code r. 871-24.32(7).

The employer established business reasons for discharging the claimant on February 18, 2014. The claimant's most recent absence occurred because the road she drove to get to work was closed. The claimant properly notified the employer she was unable to work on February 17. The claimant established reasonable grounds for being absent on February 17, 2014. The claimant did not commit work-connected misconduct. As of February 16, 2014, the claimant is qualified to receive benefits.

**DECISION:**

The representative's March 10, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of February 16, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs