

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COURTNEY R LAFLER

Claimant

ARCHER-DANIELS-MIDLAND CO

Employer

APPEAL 20A-UI-00856-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/05/20

Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Courtney Lafler (claimant) appealed a representative's January 24, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits after a separation from work with Archer-Daniels-Midland (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 13, 2020. The claimant participated personally. The employer participated by Patricia Cash, Human Resources Specialist. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 12, 2019, as a full-time utility. She signed for receipt of the employer's handbook on when she was hired. Employees who accumulate twenty-four points in a rolling calendar year are terminated.

The claimant was absent on April 21 and 22, 2019, due to illness. She provided a doctor note to the employer. On June 1, 2, 15, 16, and 24, 2019, the claimant was absent to care for her fiancé or drive him to appointments. On December 25, 2019, the claimant was tardy for work due to transportation issues. She had accumulated twenty-two points as of December 25, 2019.

On April 26, 2019, the employer issued the claimant a written warning extending the claimant's probationary period due to excessive absenteeism after reaching six points. On July 5 and 18, 2019, the employer gave the claimant written and final warnings for absenteeism. The employer notified the claimant with each warning that further infractions could result in termination from employment. As of July 18, 2019, the claimant had accumulated eighteen points.

On December 27, 2019, the claimant went to the guard shack and said she would not appear for the 10:30 p.m. to 6:48 a.m. shift. She did not appear for work because she was attending a funeral later in the morning on December 28, 2019, for her stepbrother.

On December 30, 2019, the Human Resources Specialist called the claimant repeatedly and left messages. She called the claimant's mother and left a message. The claimant did not return the employer's calls.

The claimant was scheduled to return to work on January 1, 2020. She heard from co-workers that her job had been filled and she decided not to return to work. The employer assessed the claimant six points for failure to appear for work without notice. As of January 1, 2020, the claimant had thirty-one points. The employer called the claimant on January 2, 2020, and terminated her.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for 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).

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. 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 unexcused absenteeism, is considered excessive. Benefits are withheld.

The claimant's and the employer's testimony was not the same. The administrative law judge finds the employer's testimony to be more credible. The claimant's testimony was internally inconsistent.

DECISION:

The representative's January 24, 2020, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs