

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ZINEIDA HUKAREVIC
4403 – 66TH ST
URBANDALE IA 50322**

**CENTRAL IOWA HOSPITAL CORP
C/O HUMAN RESOURCES
1313 HIGH ST STE 111
DES MOINES IA 50309-3119**

**Appeal Number: 05O-UI-07785-AT
OC: 04-24-05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Zineida Hukarevic filed a timely appeal from an unemployment insurance decision dated May 24, 2005, reference 01, which disqualified her for benefits. Following a hearing in which Ms. Hukarevic did not participate, administrative law judge James E. Timberland issued a decision on June 29, 2005, affirming the disqualification. The Employment Appeal Board remanded the case for another hearing in an order dated July 26, 2005. After due notice was issued, a telephone hearing was held August 30, 2005. Ms. Hukarevic participated on her own behalf with the assistance of an interpreter, Zijo Sucasca. Human Resources Partner Barbara Foertsch participated for the employer, Central Iowa Hospital Corporation/

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Zineida Hukarevic was employed by Central Iowa Hospital Corporation from August 9, 2000, until she was discharged April 27, 2005. She last worked as a clinical partner, a position similar to that of nurse's aid. Ms. Hukarevic was discharged for poor attendance. Between January 1 and April 19, 2005, Ms. Hukarevic was tardy on 24 occasions. Ms. Hukarevic and her son, who worked a different shift, shared a car. If the son was late getting home from work, Ms. Hukarevic was late arriving for work at Central Iowa Hospital Corporation. Ms. Hukarevic received warnings on March 17 and March 22, 2005. The employer did not consider Ms. Hukarevic's absences due to workers' comp matters or absences covered by FMLA.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in this record establishes that Ms. Hukarevic was discharged for misconduct in connection with her work. It does.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

Excessive unexcused absenteeism, a concept which includes tardiness, is one form of misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Absence due to matter of personal responsibility such as transportation are considered unexcused whether or not the employee notifies the employer of the impending absence. See Harlan v. Iowa Department of Job Service, 350 N.W.2d 192 (Iowa 1984). The evidence in this record establishes 24 instances of tardiness due to transportation difficulties culminating in a final incident on April 19, 2005. The record also establishes two warnings. Taken together, this evidence is sufficient to establish excessive unexcused absenteeism. Benefits must be withheld.

DECISION:

The unemployment insurance decision dated April 24, 2005, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

kjw/kjw