

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BELINDA S RAWLINS**  
Claimant

**APPEAL NO. 07A-UI-09783-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PER MAR SECURITY & RESEARCH CORP**  
**PER MAR SECURITY SERVICES**  
Employer

**OC: 09/02/07 R: 02**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Belinda S. Rawlins (claimant) appealed a representative's October 10, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment from Per Mar Security Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2007. This appeal was consolidated for hearing with one related appeal, 07A-UI-09784-DT. The claimant participated in the hearing. Patti May appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on September 15, 2006. Since approximately April 2007 she worked part time as a security officer, working each Tuesday and Thursday from 4:00 p.m. to 4:00 a.m. at the employer's Bondurant, Iowa, business client, and working as a floater on an as-needed basis on the weekends at the employer's Newton, Iowa, business client. Her last day of work was August 28, 2007. The employer discharged her on August 30, 2007. The reason asserted for the discharge was excessive absenteeism.

The claimant had at least ten occurrences since January 1, 2007 where she either called off work or called in to report she was leaving early, or where she had left early without permission. Of her full days of absence, three were due to illness, and five were due to being tired, having frozen pipes or water lines at home, putting her car in the ditch, or having problems with her boyfriend. She had been given a verbal warning on January 6 and was given a written warning on July 4 for an instance on June 6 where she had left early without permission. She had also been verbally reminded on occasion that she had been missing too much work.

The claimant called in on August 21 and on August 23, 2007 reporting absences for “personal” reasons. The reason for the absences was that the claimant’s best girlfriend’s mother had died and the claimant was assisting the girlfriend in making funeral preparations. As a result of these final occurrences, the employer discharged the claimant.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982); Iowa Code § 96.5-2-a.

Iowa Code § 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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. “Misconduct” is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

871 IAC 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.

Absences due to issues that are of purely personal responsibility and which are within the control or choice of the claimant are not excusable. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984); Harlan v. Iowa Department of Job Service, 350 N.W.2d 192 (Iowa 1984). The claimant's final absences were not excused and were not due to illness or other reasonable grounds. The claimant had previously been warned that future absences could result in termination. Higgins, supra. The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's October 10, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for disqualifying reasons. The claimant is disqualified from receiving unemployment insurance benefits as of August 30, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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