

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNE E MYERS**  
Claimant

**APPEAL NO. 13A-UI-11225-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MID-STATES TRANSMISSION PARTS INC**  
Employer

**OC: 09/08/13**  
**Claimant: Appellant (2-R)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 27, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on October 30, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as an administrative secretary from December 1994 to August 31, 2013.

The claimant was discharged on August 31, 2013, for excessive absenteeism. Her absences were due to legitimate illness and were properly reported. The claimant suffers from congestive heart disease and chronic obstructive pulmonary disease.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The unemployment insurance rules provide: "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." 871 IAC 24.32(7).

The facts presented in the hearing raises an issue that was not included on the hearing notice, which is whether the claimant has satisfied the requirement of the law to be able to and available for work. This issue is remanded to the Agency.

**DECISION:**

The unemployment insurance decision dated September 27, 2013, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible. The issue of whether the claimant has satisfied the requirement of the law to be able to and available for work is remanded to the Agency.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css