

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THORSHA M GARY
Claimant

APPEAL NO. 11A-UI-00734-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMPS NOW HEARTLAND LLC
Employer

OC: 07/18/10
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 14, 2011 determination (reference 05) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Mary Burkett and Joseph McDonnell appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The employer assigned the claimant to a job on October 2, 2010. On November 1, 3, and 4, the claimant contacted the employer to report she was ill and unable to work. On November 3, Burkett talked to the claimant and told her that her job was in jeopardy because of ongoing absences.

After the claimant called and reported she was ill on November 4, the employer ended her assignment the next day because she had too many absences—six since October 2. The claimant had not completed the assignment. Even though the employer ended the assignment the claimant started on October 2, the claimant is eligible to be assigned to another job.

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. 871 IAC 24.32(7).

The employer established justifiable business reasons for ending the claimant's assignment on November 5. The evidence, however, establishes the claimant was ill and properly notified the employer she was ill and unable to work the last three days. Under these circumstances, the claimant is qualified to receive benefits.

The employer is not one of her base period employers. During the claimant's current benefit year, the employer's account will not be charged.

DECISION:

The representative's January 14, 2011 determination (reference 05) is affirmed. The employer ended the claimant's assigned for justifiable business reasons, but the claimant did not commit work-connected misconduct. As of December 5, 2010, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. During the claimant's current benefit year, the employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw