

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRANDY S MATTHEWS**  
Claimant

**APPEAL NO. 14A-UI-03190-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PSC INDUSTRIES INC**  
Employer

**OC: 02/23/14**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated March 19, 2014, reference 03, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Paige Coogle participated in the hearing on behalf of the employer with a witness, Jay Hetzler.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a stager from November 25, 2013, to February 20, 2014. The claimant was informed and understood that under the employer's work rules, employees were required to notify the employer if they were not able to work as scheduled. Employees were assessed points for unscheduled absences or tardiness. At four points during the first 90 days, employees received a first warning. Employees received a final warning if after one more point and were subject to discharge if they had any further infractions.

The claimant received her first warning on January 23, 2014, after absences on December 6, January 6, and January 21. Her absences were due to illness and were properly reported. She received a final warning on February 7 after an absence due to illness on February 4 and 5. She called in properly and brought in a doctor's excuse.

On February 19, the claimant was concerned for her 17-year-old daughter's safety because she was missing and had not been home in two days. Late in the afternoon on February 19, the claimant received a call that her daughter was at school. The claimant asked for permission from a supervisor to leave work early to go to school to talk to her daughter. The supervisor told the claimant to talk to the plant manager. The plant manager told the claimant that she needed to do what she needed to do, but with her points situation, she could possibly lose her job. The claimant considered the matter to be an emergency and left work. The employer discharged her on February 21 under its attendance policy.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

**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)

While the employer may have been justified in discharging the claimant under the attendance policy, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. The claimant's absences up through February 19 were due to illness and were properly reported. The absence on February 19 was an emergency situation that provided reasonable grounds to leave work early. She notified the employer and sought permission to leave.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

**DECISION:**

The unemployment insurance decision dated March 19, 2014, reference 03, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

---

Steven A. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

saw/pjs