

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KRISTINA M SISCO**  
Claimant

**APPEAL NO. 13A-UI-03250-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FOODS INC**  
Employer

**OC: 07/29/12**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Kristina Sisco, filed an appeal from a decision dated March 15, 2013, reference 02. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 16, 2013. The claimant participated on her own behalf. The employer, Foods, Inc., participated by Store Manager Steve Graham.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Kristina Sisco was employed by Foods, Inc. from September 1, 2012 until February 17, 2013 as a full-time cashier. The claimant had worked regularly scheduled hours beginning in December 2012, opening at 6:00 a.m. and working until 3:30 p.m. Monday through Friday.

Her last day of work was February 6, 2013, and she was absent due to a non-work-related accident February 7 and 8, 2013. She was released to return to work by her doctor and Store Manager Steve Graham talked to her on February 11, 2013, informing her to return to work at her regular time February 12, 2013. Ms. Sisco called around 6:15 a.m. February 12, 2013, to say she did not have any transportation to work. Around 9:00 a.m. she called again and told Mr. Graham it would be about three more hours until she could arrive. She was no-call/no-show to work after that and did not contact the employer again until Sunday, February 17, 2013. At that time she was told she had been no-call/no-show to work for six days and was discharged for job abandonment.

Ms. Sisco had requested February 14 and 15, 2013, off due to lack of transportation. The employer would have granted it after making arrangements for her to work two other days that week to make up for the missed shifts. As she never appeared for work after being released by her doctor, no arrangements could be made, but she would have had to work Saturday or

Sunday, February 16 and 17, 2013, to make up for the lost time, and she did not report for work or call in on either of those days.

**REASONING AND CONCLUSIONS OF LAW:**

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.

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.

The claimant was dismissed from work for being absent for six days without calling or coming into work. Her last communication at 9:00 a.m. on Tuesday, February 12, 2013, when she informed the store manager she would not be in for another three hours or so, but she never appeared and never communicated after that.

Whatever transportation or communication problems the claimant experienced was a personal matter and does not constitute excused absences. *Harlan v. IDJS*, 350 N.W.2d 192 (Iowa 1984). The claimant was discharged for excessive, unexcused absenteeism. Under the

provisions of the above Administrative Code section, this is misconduct and the claimant is disqualified.

**DECISION:**

The representative's decision of March 15, 2013, reference 02, is affirmed. Kristina Sisco is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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