

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TINIKA M WASHINGTON
Claimant

APPEAL NO. 07A-UI-04520-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ACCESSIBLE MEDICAL STAFFING
Employer

**OC: 04/01/07 R: 04
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Accessible Medical Staffing filed an appeal from a representative's decision dated April 24, 2007, reference 04, which held that no disqualification would be imposed regarding Tinika Washington's separation from employment. After due notice was issued, a hearing was held by telephone on May 21, 2007. Ms. Washington participated personally. The employer participated by Mindy Peterson, Administrator.

ISSUE:

At issue in this matter is whether Ms. Washington was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Washington began working through Accessible Medical Staffing on October 20, 2006. She last performed services on December 31, 2006. On January 15, she accepted an assignment to work a double shift on January 20 starting at 2:00 p.m. Ms. Washington called at 10:18 a.m. on January 20 to advise that she could not work the assignment because she did not have child care. She was told she would not have a job if she did not report for the scheduled work. She has not been contacted for work since that time. Prior to January 20, Ms. Washington had only declined work if she was working elsewhere through a different agency.

REASONING AND CONCLUSIONS OF LAW:

Ms. Washington was told on January 20 that she would no longer have a job if she did not report for her shifts that day. This statement, coupled with the fact that she has not been called for work since that date, supports the conclusion that the employer initiated her separation from the employment. Therefore, the separation is considered a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of

proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Ms. Washington was discharged because she did not work the double shift on January 20 as she had previously agreed. Her absence on this date was due to lack of child care. Absences caused by matters of personal responsibility, such as child care, are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). However, Ms. Washington did not have any history of missing assigned work due to child care issues. The single unexcused absence of January 20 is not sufficient to establish excessive unexcused absenteeism within the meaning of the law. For the reasons stated herein, it is concluded that the employer has failed to establish disqualifying misconduct. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated April 24, 2007, reference 04, is hereby affirmed. Ms. Washington was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs