

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SOPHIE L QUAYE**  
Claimant

**APPEAL NO. 09A-UI-17425-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PACIFICA HEALTH SERVICES LLC**  
Employer

**Original Claim: 10/25/09  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Sophie Quaye, filed an appeal from a decision dated November 13, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on December 28, 2009. The claimant participated on her own behalf. The employer, Pacifica Health Services, participated by Human Resources Manager Kim Miles and Housekeeping/Laundry Supervisor Cindy Barnes. Exhibits One and Two were admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Sophie Quaye was employed by Pacifica Health Services (PHS) from December 23, 2008 until October 26, 2009 as a full-time housekeeper. Ms. Quaye was given a written warning and three-day suspension on October 19, 2009, because she had left before the end of her shift on October 17 and 18, 2009. This was because she did not have child care. The warning was issued to her by Housekeeping/Laundry Supervisor Cindy Barnes. At the time the disciplinary action was being discussed, Ms. Barnes showed Ms. Quaye a copy of the schedule for that week and pointed out to her that her paycheck would be short because she would be off work for the three days. At the same time, the supervisor pointed out to Ms. Quaye that she was scheduled to work October 24 and 25, 2009, her usual weekend off. The claimant had asked for more hours and the only way she could get them was to work on weekends. A copy of the schedule was attached to the claimant's copy of the written warning.

She served the suspension on October 20, 21, and 22, 2009. She worked on Friday, October 23, 2009, but was no-call/no-show on October 24 and 25, 2009. When Ms. Barnes met with her on October 26, 2009, and asked her why she had not worked the two prior days, the claimant said she had forgotten she was scheduled 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 had been advised her job was in jeopardy as a result of her absenteeism. This was reinforced with a three-day suspension. The employer went to some lengths to notify her of the scheduled days to work on October 24 and 25, 2009, because these were the claimant's usually scheduled days off. But, to accommodate her request for more hours, the employer scheduled her for that weekend. Being no-call/no-show to work for two successive days, in addition to leaving work early the previous weekend without permission because of lack of child care, is excessive, unexcused absenteeism. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

**DECISION:**

The representative's decision of November 13, 2009, reference 01, is affirmed. Sophie Quaye is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw