

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHARON D POINDEXTER**  
Claimant

**APPEAL NO. 08A-UI-02261-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMPREHENSIVE SYSTEMS INC**  
Employer

**OC: 01/27/08 R: 02  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Sharon Poindexter, filed an appeal from a decision dated February 25, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on April 2, 2008. The claimant participated on her own behalf. The employer, Comprehensive Systems, participated by Program Director Sheryl Heyenga.

**ISSUE:**

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

**FINDINGS OF FACT:**

Sharon Poindexter was employed by Comprehensive Systems from November 2, 2006 until December 14, 2007, as a part-time support staff working 9:00 p.m. until 5:30 a.m. Thursday, Friday and every other weekend. The claimant lived in Mason City and her work site was Charles City.

In December she had missed five of twelve scheduled shifts due to lack of transportation. She was scheduled to work Thursday, December 13, 2007, and Program Director Sheryl Heyenga contacted her in the afternoon to make sure she was going to come to work that night. Ms. Poindexter said she would not be able to come because her car was still not working. The employer notified her if she did not come to work as scheduled she would be discharged. The claimant did not come to work and her employment was ended.

**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. Her absences were due to lack of transportation. Matters of purely personal consideration, such as lack of transportation, are not considered an excused absence. Harlan v. IDJS, 350 N.W.2d 192 (Iowa 1984). The claimant missed five of twelve scheduled shifts because her car did not work and these cannot be considered excused absences. Missing forty percent of her shifts is excessive and unexcused absences. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

**DECISION:**

The representative's decision of February 25, 2008, reference 01, is affirmed. Sharon Poindexter 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/css