

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROXANNE ARNETT**  
Claimant

**APPEAL NO: 14A-UI-05040-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CAPTIVE PLASTICS INC**  
Employer

**OC: 04/13/14**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the May 5, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on June 4, 2014. The claimant participated in the hearing. Julie Ryan, Human Resources Manager and Carol Mockmore, Administrative Assistant/Accounts Payable, participated in the hearing on behalf of the employer. Employer's Exhibits One through Five were admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time packer for Captive Plastics from May 21, 2007 to April 14, 2014. She was discharged from employment due to a final incident of absenteeism that occurred on April 13, 2014.

The employer uses a no-fault, point-based attendance policy and employees are discharged if they accumulate nine points within a rolling 12-month period. If the employee reports her absence any time prior to the scheduled start time of her shift it is considered an excused absence and she receives one point. If the employee fails to call prior to the start time of her shift it is considered an unexcused absence and she receives three points. If the employee arrives any time after the start time of her shift or leaves prior to the end of her shift she receives one-half point.

The claimant had seven and one-half points to start 2013. One point dropped off January 21, 2013, but she received one point February 3, 2013, before one point dropped off April 4 and May 15, 2013, for a total of five and one-half points as of May 15, 2013. The claimant accumulated one point May 24, 2013, one-half point June 13, 2013, and one point July 20, 2013, for a total of eight points. At that time the claimant was placed on a last chance

agreement effective July 20, 2013, which stated she could not gain any points prior to October 20, 2013, or her employment would be terminated. (Employer's Exhibit Two). That warning dropped off October 20, 2013. The claimant had seven points as of January 15, 2014 (Employer's Exhibit Three). She received one-half point February 3 but also dropped one-half of a point that day. She received one point February 12, 2014, for a total of eight points. The claimant called in March 13, 2014, and was given one and one-half points for a reason the employer could not explain but after that absence the employer had her listed at eight and one-half points and she was again placed on a last chance agreement (Employer's Exhibit Four). She was instructed she could not have any absences except for preapproved vacation until June 14, 2014 (Employer's Exhibit Four). On April 13, 2014, the claimant called in after the start of her shift and stated she overslept and did not have transportation and received three points (Employer's Exhibit Five). That was in violation of her last chance agreement of March 14, 2014, and her employment was terminated April 14, 2014. The claimant could not recall the reason for most of her absences with the exception of believing she was ill May 24, 2013, and her significant other being taken to the hospital by ambulance June 13, 2013.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for disqualifying job misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984).

The employer has established that the claimant was warned that further unexcused absences could result in termination of employment and the final absence was not excused. The final absence, in combination with the claimant's history of absenteeism, is considered excessive. Therefore, benefits must be denied.

**DECISION:**

The May 5, 2014, reference 01, decision is affirmed. The claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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