

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**Appeal Number: 04A-UI-01804-HT
OC: 01/11/04 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

**MIA J FIELDS
PO BOX 33
WESTGATE IA 50681**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

**ALLIED INTERSTATE INC
c/o SHEAKLEY UNISERVICE
PO BOX 1160
COLUMBUS OH 4326-1160**

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**DAVE NAGLE
PO BOX 792
WATERLOO IA 50704**

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant, Mia Fields, filed an appeal from a decision dated February 10, 2004, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 25, 2004. The claimant participated on her own behalf and with a witness Carol Mullins-Fields. The claimant was represented by Attorney Dave Nagle. The employer, Allied Interstate, Inc. (Allied), participated by Director of Eastern Region Human Resources Patty Akin, Director of Western Region Human Resources Chris Van Lith and Human Resources Representative Louanne Kafer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Mia Fields was employed by Allied from March 24 through December 24, 2003. She was a full-time collector.

Ms. Fields was absent from work beginning November 26, 2003. Her physician provided a statement to the employer excusing her from work through February 1, 2004. Human Resources Representative Louanne Kafer was notified of this by the claimant's supervisor, and contacted the Associates Service Center to have a leave of absence packet sent to Ms. Fields. This packet contains forms to be filled out by the employee and a physician, requesting the medical leave of absence and providing medical certification of the necessity for the leave.

The claimant had received the packet by December 8, 2003, and contacted the employer for an explanation. The packet stated she had 15 days to provide the completed forms and documentation. She was told to call back but did not do so until December 17, 2003, when Director of Eastern Region Human Resources Patty Akin talked to the claimant's mother, Carol Mullins-Fields. Ms. Akins allowed an extension until December 22, 2003, to provide the documentation and forms. However, neither the claimant nor her physician provided any of the necessary documents to the employer by the deadline. She was considered absent without leave and was notified of her discharge when she contacted Ms. Kafer on January 13, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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 on an unapproved leave of absence. While she had provided an initial doctor's excuse in late November, she knew the employer required her to fill out the necessary forms and to provide certification from her doctor. She failed to do this in spite of an extension granted to her by the employer and did not provide any credible explanation. The administrative law judge does not find the claimant's witness to be credible when she asserted Ms. Akin waived the deadline for the return of the documents. The documents, on their face, notified Ms. Fields of the deadline, and the employee handbook also specified the procedures for requesting a leave of absence. There was nothing presented as to why the employer would waive the requirement of the medical certification in the claimant's case.

The claimant was discharged for absenteeism which was unexcused due to the failure to provide the required medical documents. Under the provisions of the above Administrative Code section, this is misconduct and she is disqualified.

DECISION:

The representative's decision of February 10, 2004, reference 01, is affirmed. Mia Fields is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/kjf