

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KEZIA E WILLIAMS
Claimant

APPEAL NO. 13A-UI-05795-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BROWN CUSTOMER DELIGHT GROUP INC
Employer

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

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 6, 2013, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on June 24, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Jackie Nolan participated in the hearing on behalf of the employer with witnesses, Kelly Betts, Chris Dilse, Jennifer Appenzeller and Christina Petefish.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked part time for the employer as a manager in training from June 29, 2011, to April 5, 2013. She was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer two hours before the start of the shift if they were not able to work as scheduled.

The claimant was absent from work without notice on August 31, 2012. She was 55 minutes late without proper notice on October 25. She was absent for personal reasons on October 28. She was 45 minutes late on November 1. She was absent due to a court appearance on November 26. She was absent without notice on February 20, 2013. She was absent on February 22 due to car problems. She was 20 minutes late on March 13 and an hour late on March 27 without notice. She was absent without notice on March 25.

On either March 30 or April 1, the claimant called to say she did not have a ride to work because her car had broken down and she relied on relatives for rides.

The employer discharged the claimant for excessive unexcused absenteeism on April 5, 2013.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The unemployment insurance rules provide: "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." 871 IAC 24.32(7).

The record shows the claimant was repeatedly late or absent from work often without proper notice to the employer. Under the circumstances, the claimant's car problems would not be considered an excused reason for missing work. She should have found alternative means of getting to work.

DECISION:

The unemployment insurance decision dated May 6, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css