

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NICOLE L HOFFMEIER**

Claimant

**APPEAL NO: 11A-UI-12326-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**

Employer

**OC: 08/14/11**

**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 15, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Before the scheduled hearing, the employer's representative notified the Appeals Section that the employer would not be participating at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in May 2008. She worked as a full-time collector. The claimant understood the employer would discharge employees if they had excessive absenteeism. The employer's policy informed employees they would be discharged after they had seven unexcused absences.

Prior to August 13, 2011, the employer gave the claimant warnings about her attendance. The claimant understood her job was in jeopardy because of on-going attendance issues. The claimant's earlier absences occurred when she took her child to doctor appointments and when she missed work because she was involved in an abusive relationship.

The evening of August 11, 2011, the claimant was at her sister's home with her son. The claimant's sister and her husband are separated. When the claimant wanted to leave her sister's home, her sister's husband blocked the driveway so the claimant could not get out. The claimant argued with him. After several hours of arguing, the claimant's sister called the police. The claimant did not get home until after 4:00 a.m. She was scheduled to be at work at 8:00 a.m.

The claimant overslept and did not wake up until 8:30 or 8:45 a.m. She called the employer to report she had overslept and would not be at work. That evening, the claimant received a restraining order that prevented her from having contact with her sister or her children. The claimant's niece took care of the claimant's son on Saturdays when the claimant worked. After the claimant received the restraining order, she did not have anyone to take care of her child if she worked as scheduled on Saturday. The claimant called the employer on August 13 to report she would not be at work.

When the claimant reported to work on August 16, the employer discharged her for excessive absenteeism.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

The claimant knew or should have known her job was in jeopardy for on-going attendance issues. The claimant did not take reasonable steps to end the argument Thursday night so she could go home and go to bed. The claimant's failure to take the necessary and reasonable steps on Thursday night when she argued with her brother-in-law does not establish reasonable grounds for her absence from work the next day. In fact, the claimant's conduct Thursday night resulted in her brother-in-law getting a restraining order so her niece could not take care of her son when the claimant worked on Saturday. Based on the facts in this case, the claimant committed work-connected misconduct. As of August 14, 2011, the claimant is not qualified to receive benefits.

#### **DECISION:**

The representative's September 15, 2011 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 14, 2011. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employers' account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css