

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KORI K RICHARDSON
Claimant

APPEAL NO: 12A-UI-15145-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARKETLINK INC
Employer

OC: 11/25/12
Claimant: Respondent (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 19, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant participated in the hearing. Amy MacGregor, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is 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 August 2011. She worked as a full-time telephone sales representative. The claimant received a copy of the employer's written attendance policy. The employer's policy indicates an employee will be discharged if they accumulate more than 8.5 attendance points in a rolling calendar year.

During her employment, the claimant received the following attendance points.

Date	Reason	Points
2/27 through 3/5/12	daughter ill	1
4/2/12	became ill at work	0.5
4/10/12	left work early	0.5
5/9 and 10/12	son ill	1
6/1/12	left work early	0.5
6/11/12	personal	0.5
6/19/12	left work early ill	0.5
6/29/12	personal	1
9/25/12	late	0.5
10/15 through 19	ill	1

On October 22, the claimant received a written counseling for the above attendance issues. The warning informed the claimant that further attendance issues could result in her discharge.

On October 25, the claimant received 0.5 attendance points for reporting to work late when her alarm did not go off. On October 26 and 27, the claimant received an attendance point when she did not report to work because of a toothache. On November 26 and 27, the claimant did not report to work because she was ill. The employer assessed her one attendance point for this absence. The claimant properly notified the employer when she was unable to work. The claimant gave the employer a doctor's statement for her November absences.

On November 28, the employer discharged the claimant for excessive absenteeism. She had accumulated 9.5 attendance points since February 27, 2012.

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 employer discharged the claimant for justifiable business reasons – excessive absenteeism as defined by the employer's attendance policy. The claimant's primary reason for being absent was either she was ill or her children were ill. The most recent absences occurred because of the claimant's medical issues. Since the claimant properly reported her absences, she did not commit work-connected misconduct when she was ill and unable to work. As of November 25, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's December 19, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons but the claimant did not commit work-connected misconduct. As of November 25, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/tll