

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KATHERINE M WHITE
Claimant

APPEAL NO. 09A-UI-17181-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

**Original Claim: 10/18/09
Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer appealed a representative's November 2, 2009 decision (reference 01) that concluded the claimant as qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for non-disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 21, 2009. The claimant did not respond to the hearing notice or participate in the hearing. Kenny Sackett, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on November 5, 2007. The claimant worked as a full-time cashier.

The claimant started having medical issues in September 2009. On September 9, the claimant notified the employer she was ill and unable to work. The claimant gave the employer a doctor's statement verifying she could not work this day. The claimant was next scheduled to work on September 12. The claimant's doctor gave the employer a statement verifying the claimant was ill and unable to work September 12 through 23. The claimant notified the employer she was unable to work these days.

The claimant was scheduled to work on September 24, but she did not call or report to work. The claimant reported to work as scheduled on September 25. She told the employer she had been ill and unable to work the day before. The claimant came to work on September 26, but left work early. The claimant told the employer she did not feel well and was going to see her doctor.

The claimant did not work as scheduled on September 27, 29, and October 1. She talked to the office manager on October 1 and indicated it would be awhile before she would be able to return to work.

On October 10, the claimant called and talked to Sackett. She told the employer she was in the hospital and had been ill the last two weeks. Since the claimant had missed 14 days of work, the employer told her she would have to complete FMLA paperwork to cover any more absences. The employer understood the claimant would make arrangements to get the FMLA paperwork the next day.

The claimant did not complete the necessary FMLA paperwork. She did not report to work or contact the employer after October 10. When the claimant had not contacted the employer or reported to work by October 18, the employer completed the necessary paperwork to end the claimant's employment relationship.

The claimant established a claim for benefits during the week of October 18, 2009. She has filed for and received benefits since October 18, 2009.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Based on the evidence presented during the hearing, the claimant quit her employment by abandoning it after October 10, 2009. When a claimant quits, she has the burden to establish she quit for reason that qualify her to receive benefits. Iowa Code § 96.6-2.

Since the claimant did not participate in the hearing, it is not known why she did not complete FMLA paperwork or contact the employer after October 10, 2009. The claimant may have had compelling personal reasons for not contacting the employer or returning to work after October 10, 2009, but the evidence does not establish that she quit for reasons that qualify her to receive benefits. Therefore, as of October 18, 2009, the claimant is not qualified to receive benefits. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section.

DECISION:

The representative's November 2, 2009 decision (reference 01) is reversed. The claimant voluntarily quit her employment but did not establish that she quit for reasons that qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 18, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment is Remanded to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw