

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KELLY A CALLAN**  
Claimant

**APPEAL NO: 12A-UI-09394-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AEROTEK INC**  
Employer

**OC: 07/10/11**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's July 26, 2012 determination (reference 03) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Curt Van Order, the account manager, appeared on the employers' 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 at a client's assignment doing data entry on March 1, 2012. This client does not have a written attendance policy. During her assignment, the claimant was absent on April 18; May 14, 15, 16, and 17; and June 19, 25, and 27. With the exception of three absences, May 15, June 25 and 27, the employer approved the claimant's absences prior to the absence. The claimant called in sick on May 15, June 25 and 27.

The claimant had no idea her job was in jeopardy. May 18 was the only time the client talked to her about her to find out what was going on and why she had just recently been absent. After the claimant called in on June 25 and 27, her supervisor, S.P., called her the evening of June 27. S.P. told the claimant she no longer had a job because the employer needed someone who would be at work all the time.

The claimant had established a claim for benefits during the week of July 10, 2011. She reopened this claim the week of June 24, 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 presented justifiable business reasons for discharging the claimant. Since the claimant was not warned that her job was in jeopardy and she was ill and unable to work the three times she had received prior approval to be absence, the claimant's absences do not rise to the level of work-connected misconduct. As of June 24, 2012, the claimant is qualified to receive benefits.

The employer's account will not be charged for benefits paid to the claimant under her July 10, 2011 claim year, because the employer is not a base period employer. If the claimant established a new benefit year and the employer is one of her base period employers, then the employer's account would be charged.

**DECISION:**

The representative's July 26, 2012 determination (reference 03) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of June 24, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. When the employer's account is one of the claimant's base period employers, its account may be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw