

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JACQULYNE D JONES**  
Claimant

**APPEAL NO. 11A-UI-08228-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TARGET CORPORATION**  
Employer

**OC: 07/04/10**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's June 20, 2011 determination (reference 02) 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. Courtney Mast and Dana Roberts appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant 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 2010. She worked as a part-time cashier. When the employer addresses attendance issues with employees, only days an employee is more than 15 minutes late for work are considered.

The employer gave the claimant her first documented attendance counseling on January 11, 2011. Since November, the claimant had been late for nine or more times and had been absent six times. When the claimant called to report she was unable to work, she indicated she was ill, she did not have childcare, her back hurt, or she had personal business to do. On January 11, the employer emphasized that she needed to work as scheduled.

The employer gave the claimant a written warning on March 2 for attendance issues. After January 11, the claimant was absent nine days and late once. Four of the absences occurred because of the claimant's back issues. Even though the employer did not require a doctor's statement, the claimant provided a doctor's statement verifying she had been unable to work February 22 through 26 because of back problems.

After the claimant received the March 2 warning, she was late on March 11 and April 13 and was absent on April 14 and 22. On May 1, the claimant understood an employee agreed to work her shift because the claimant did not have daycare on Sundays. The employer recorded

that no one reported for the claimant's May 1 shift. On May 7, 11, and 13, the claimant notified the employer she was unable to work because her back hurt and she could not stand to do her cashier's job. As a result of the claimant's on-going attendance issues, the employer gave the claimant a written warning on May 18. The employer told the claimant she had to make immediate improvement in her attendance and the next month was critical for her continued employment. After the claimant received the May 18 warning, she understood her job was in jeopardy.

On May 20 and 21, the claimant notified the employer she was unable to work. She had stomach flu. On May 24, 2011, the employer discharged the claimant for on-going attendance issues.

**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 established justifiable business reasons for discharging the claimant. As a result of the claimant's back issues, she was not a dependable or reliable employee. The majority of her 2011 absences were the result of her back problems. The last two absences occurred because the claimant was unable to work because she had the flu. Even though the claimant had numerous absences, she properly notified the employer when she was unable to work. Since the majority of her absences occurred because she was ill or unable to work, the claimant established justifiable reasons as to why she was absent. The claimant did not commit work-connected misconduct. As of May 22, 2011, the claimant is qualified to receive benefits.

**DECISION:**

The representative's June 20, 2011 determination (reference 02) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of May 22, 2011, the claimant is qualified to receive benefits. The employer's account may be subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw