

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CRYSTAL L CHRISTOFFERSON**  
Claimant

**APPEAL NO: 12A-UI-14237-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALANIZ LLC**  
Employer

**OC: 10/28/12**  
**Claimant: Appellant (5)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's November 26, 2012 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated in the hearing. Mike Owens, a human resource generalist, 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 not qualified to receive benefits.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits or did the employer discharge her for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in September 2011 as a full-time machine operator. The employer's attendance policy informs employees they will be terminated after they accumulate six attendance points.

The claimant received her first written warning for attendance issues on March 20, 2012, after she had three attendance points. She accumulated four attendance points by April 23 and received another written warning. On October 3, the claimant felt dizzy at work. The employer sent her home with pay to write a letter as to what she would do to resolve her attendance issues. The claimant indicated she would request FMLA so her absences would be covered so she would not receive attendance points. The employer gave her until October 22 to return the FMLA paperwork.

About a week later the claimant went to one of her medical doctors. This doctor advised the claimant to have her other specialist, a neurologist, complete the FMLA paperwork. The first doctor did not believe the medication he prescribed caused her dizziness. He did not restrict her from working. The claimant sent the FMLA paperwork to her neurologist because she did not have a scheduled appointment.

The claimant did not report to work after October 3 because she felt dizzy at home and assumed the employer would send her home if she reported to work. The employer did not receive the FMLA paperwork by October 22. The employer sent the claimant a certified letter on October 23 advising her that the deadline to get the necessary paperwork back to the employer had been extended to October 29. The claimant received the certified letter on October 25. Prior to October 29, the claimant called her neurologist's office and told nurses that she needed the doctor to complete and return the FMLA paperwork to her employer.

The employer never received the FMLA paperwork. On October 30, the employer informed the claimant in a letter that she was terminated because she violated the employer's attendance policy by accumulating more than six attendance points. The claimant had not worked since October 3, she did not provide the employer with a doctor's statement excusing her from work and she did not submit the FMLA paperwork.

#### **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(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).

On October 3, the claimant advised the employer she would apply for FMLA and have her doctor complete the necessary paperwork. The claimant knew she had until October 22 to provide the completed paperwork to the employer. The claimant saw one of her doctors the week of October 7. He would not restrict her from working because he concluded she had some nerve issues that her neurologist needed to address.

The claimant testified she mailed the FMLA paperwork to her neurologist because she did not have a scheduled appointment. While the claimant may have called the neurologist's office, this doctor did not complete and return any paperwork to the employer. The evidence does not indicate if the claimant's neurologist would have taken the claimant off work or believed the claimant should go on FMLA. The evidence establishes the claimant did not return to work after October 3 because she felt dizzy or shaky at home. She did not want to report to work just to have the employer send her back home. Based on the claimant's failure to submit the requested FMLA paperwork or any doctor's statement that restricted her from working as of October 3, the employer established she was discharged for excessive, unexcused, absenteeism which amounts to work-connected misconduct. As of October 28, 2012, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's November 26, 2012 determination (reference 01) is modified, but the modification has no legal consequence. The claimant did not voluntarily quit her employment. Instead the employer discharged her for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 28, 2012. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs