

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGIA M CHRISTOFFERSON
Claimant

APPEAL NO: 11A-UI-11015-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEMP ASSOCIATES
Employer

**OC: 02/27/11
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 15, 2011 determination (reference 03) 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 with her witness, Cathy Moreno, her mother. Jan Windsor 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 as of July 24, 2011.

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 again in October 2010. This assignment ended in early March. The employer then assigned the claimant to a job at CoBo on March 16, 2011. When the claimant started the assignment at CoBo's, she received information that CoBo's attendance policy ended a temporary employee's assignment if the employee accumulated 18 attendance points. Four points are assigned if an employee misses a day of work.

The claimant was absent from work as follows:

- May 10 – absent because daughter had surgery
- May 11 – absent to take care of daughter
- May 31 – absent because daughter ill
- June 3 – absent to get son
- June 27 – absent because no power and daughter ill
- June 28 – absent because daughter ill

Based on information the claimant received from CoBo supervisors, she understood attendance points started over at the beginning of each quarter. Prior to July 12, the claimant only received

verbal warnings about her attendance. The claimant did not understand her job was in jeopardy because of her attendance. She had doctors' statements verifying her children's illness.

The last day the claimant worked was July 11, 2011. On July 12, the claimant's face was so swollen she could hardly talk. She called the employer to report she was unable to work on July 12. The claimant went to an emergency room on July 12. The emergency room physician referred the claimant to a dentist.

The employer called and tried to talk to the claimant on July 12 but was unable to reach her. When the claimant did not report to work on July 12, a CoBo representative contacted the employer and asked the employer to remove or end the claimant's assignment because she had accumulated more than 18 attendance points.

The claimant learned on July 13, she had been removed from the CoBo assignment for on-going attendance issues. The claimant had dental surgery on July 18. She was able to return to work the week of July 24. She checked in with the employer on July 25 to report she was again available for work. The claimant reopened her unemployment insurance claim the week of July 24, 2011. The employer assigned the claimant to another job in mid-September.

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. The evidence does not establish that the claimant quit her employment. Instead, the employer's client, CoBo, asked the employer to end the claimant's assignment on July 12, the same day the claimant went to an emergency room because her face was swollen. For unemployment insurance purposes, the employer discharged the claimant from working at the CoBo assignment on July 12, 2011.

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). Even though CoBo had justifiable business reasons for ending the claimant's assignment on July 12, the evidence does not establish that the claimant intentionally disregarded the employer's interests. The majority of her absences before July 12 occurred because her daughter was ill. On July 12, the claimant was unable to work for medical or dental reasons which required her to go to an emergency room for treatment.

The claimant properly reported her inability to work on July 12. Even though the claimant had excessive absenteeism according to CoBo's attendance policy, her absences were primarily the result of either her illness or her daughter's illness. The claimant did not intentionally fail to work as scheduled. She did not commit work-connected misconduct. As of July 24, the claimant is qualified to receive benefits.

DECISION:

The representative's August 15, 2011 determination (reference 03) is reversed. The claimant did not voluntarily quit her employment. Instead, the employer ended the claimant's assignment at CoBo after CoBo asked that the claimant be removed from the assignment because she had accumulated more than 18 attendance points. While the employer was justified in ending the claimant's CoBo assignment, the claimant did not commit work-connected misconduct. As of July 24, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs