

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**SALENA L OBENG-SARFO
4510 N 40TH AVE
OMAHA NE 68111**

**JENNIE EDMUNDSON MEMORIAL
HOSPITAL
ATTN HUMAN RESOURCES
933 E PIERCE ST
COUNCIL BLUFFS IA 51503**

**Appeal Number: 05O-UI-07188-CT
OC: 03/13/05 R: 01
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Salena Obeng-Sarfo filed an appeal from a representative's decision dated April 4, 2005, reference 01, which denied benefits based on her separation from Jennie Edmundson Memorial Hospital (Hospital). Pursuant to the appeal, a hearing was held on May 11, 2005. The May 12, 2005 decision of the administrative law judge held the appeal untimely and Ms. Obeng-Sarfo filed a further appeal. The Employment Appeal Board, on July 8, 2005, reversed the decision regarding timeliness of the initial appeal and remanded the matter for a hearing on the merits.

Pursuant to the remand, due notice was issued scheduling the matter for a telephone hearing on August 1, 2005. Ms. Obeng-Sarfo participated personally. The employer participated by Kathy Heuwinkel, Benefits Specialist, and David Pahl, Environmental Services Team Leader.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Obeng-Sarfo was employed by the Hospital from December 29, 2003 until March 16, 2005 and was last employed as a full-time cleaning technician. She was discharged because of her attendance.

Ms. Obeng-Sarfo received a written warning regarding attendance on March 1, 2005. On March 14, she was at work for approximately 30 minutes when she requested permission to go home to turn her oven off. She did not return to work or notify the employer that she would not be back. She called one of the numbers available for environmental services but did not get an answer. She did not attempt to call later or to call an alternate number. Ms. Obeng-Sarfo remained home to clean up smoke damage and air her apartment. This process took approximately two hours. On March 15, Ms. Obeng-Sarfo was absent because of car trouble but did not give the employer a reason when she called to report the absence. As a result of the absences of March 14 and 15, Ms. Obeng-Sarfo was discharged on March 16, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Obeng-Sarfo was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Obeng-Sarfo was discharged because of her absences of March 14 and 15. She had received a warning on March 1 about her attendance. The warning should have been sufficient to put her on notice that she was in danger of losing her job because of her attendance. In spite of the warning, Ms. Obeng-Sarfo had two back-to-back unexcused absences.

The absence of March 14 is unexcused as it was not properly reported to the employer. Ms. Obeng-Sarfo went home to turn her oven off and was expected to return to work. She gave the employer no notice that she would not be returning. When she did not receive an answer when she called, she should have called a different number or tried to make the call later. She did neither. The administrative law judge does not believe it was necessary for Ms. Obeng-Sarfo to miss work to clean up the smoke damage at the time as it could have been done after she got off work later. Moreover, since it only took approximately two hours to complete the cleaning, she could have returned to work after the two hours but did not.

The absence of March 15 is unexcused as it was due to car trouble. Absences due to matters of purely personal responsibility, such as transportation, are not excused absences. Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Ms. Obeng-Sarfo had two unexcused absences within two weeks of being warned about her attendance. The administrative law judge considers this excessive. Excessive unexcused absenteeism constitutes a substantial disregard of the standards the employer had the right to expect and is, therefore, misconduct within the meaning of the law. This decision does not include those absences that occurred prior to the warning. For the reasons stated herein, benefits are denied.

DECISION:

The representative's decision dated April 4, 2005, reference 01, is hereby affirmed. Ms. Obeng-Sarfo was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjf