

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KANDI J SCHEFFLER-WRIGHT
Claimant

APPEAL NO. 07A-UI-06805-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAPTIST MEMORIAL HOME
Employer

**OC: 06-10-07 R: 01
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Kandi J. Scheffler-Wright filed a timely appeal from an unemployment insurance decision dated July 2, 2007, reference 01, that disqualified her for benefits following her separation from employment with Baptist Memorial Home. After due notice was issued, a telephone hearing was held July 26, 2007 with Ms. Scheffler-Wright participating. Administrator Mike Jarrell and Clinical Manager Leslie Fries participated for the employer. Employer Exhibit One was admitted into evidence.

ISSUE:

Was the claimant discharged for misconduct in connection with her employment?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Kandi J. Scheffler-Wright was employed as an attendant by Baptist Memorial Home from June 15, 2005 until she was discharged June 13, 2007. She was discharged because of repeated tardiness. The final incident occurred on June 11, 2007. Ms. Scheffler-Wright was tardy because of a personal legal matter. She had been tardy on 20 previous occasions in 2007. The problem with tardiness also extended into 2006. Ms. Scheffler-Wright received a second written warning on March 21, 2007 and a first written warning on August 29, 2006. She had also received various counselings because of her attendance.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her employment. It does.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Excessive unexcused absenteeism, a concept which includes tardiness, is misconduct. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984) and 871 IAC 24.32(7). The evidence in this record establishes a total of 21 instances of unexcused tardiness in 2007 with additional instances of tardiness in 2006. The evidence also establishes repeated warnings. This evidence is sufficient to establish excessive unexcused absenteeism. Benefits are withheld.

DECISION:

The unemployment insurance decision dated July 2, 2007, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/kjw