

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHERI L HULBERT**  
Claimant

**APPEAL NO: 12A-UI-04759-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LENNOX INDUSTRIES INC**  
Employer

**OC: 04/01/12**  
**Claimant: Respondent (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's April 25, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because she had been discharged for nondisqualifying reasons. The claimant participated in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is 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 January 1998. She worked as a full time assembler.

In late February 2012 the claimant's grandmother accidentally fell and broke her neck. The claimant was emotionally traumatized by this incident. Her grandmother did not get better and passed away on March 10. The last day the claimant worked was on March 12, 2012.

Before March 10 when the claimant was absent from work, she was with her grandmother. The claimant properly notified her supervisor each day she was absent. After her grandmother passed away, the claimant was grief stricken and was not herself. Her grandmother's death was the first immediate family member's death the claimant experienced.

The claimant talked to her union steward and understood the union would take care of a leave of absence for her. Based on this assumption, the claimant did not think about completing paperwork for a leave of absence. She believed she was on a leave of absence as of March 6. Even when she called in before and after March 6, the employer did not ask her to complete paperwork for a leave of absence or indicate her job was in jeopardy because of her absences.

The claimant received notice from the employer in late March, the same day as her grandmother's funeral, that she was suspended indefinitely for attendance issues. The claimant learned the employer had not granted her a leave of absence because she had not completed the necessary paperwork. The claimant then tried to complete the necessary paperwork to receive a leave of absence as of March 6, but the employer did not allow her to do this.

On April 2, the employer discharged the claimant because she had exceeded the number of attendance points the employer allowed employees to accumulate.

**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 claimant properly notified the employer when she did not report to work after her grandmother's accident and subsequent death. The claimant reasonably believed the union had taken care of a leave of absence for her. Since she continued to call in and no one told her she needed to complete some paperwork before a leave of absence could be granted or that her job was in jeopardy, the claimant had no idea the employer assessed her attendance points instead of considering her on an approved leave of absence. Under these facts the claimant did not commit work-connected misconduct. As of April 1, 2012, the claimant is qualified to receive benefits

**DECISION:**

The representative's April 25, 2012 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of April 1, 2012, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs