

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN M WILSON

Claimant

APPEAL NO. 11A-UI-04913-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 02/27/11

Claimant: Appellant (1/R)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's April 1, 2011 determination (reference 04) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Brandy Whittenbaugh, a staffing consultant, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant registered to work for the employer's clients in November 2009. The last job the employer assigned the claimant began on June 30, 2010. When the claimant started working at this assignment, she received information that this client's attendance policy for temporary employees was three strikes and you're out.

The claimant called the employer and client on July 8 to report she would be late for work. On July 19 and August 5, the claimant called the employer to report she was unable to work these two days because she was out-of-state. On August 11, the claimant called to report she was unable to work. On August 14, the claimant left a message that her wheel bearing went out on her car and she was unable to report to work. The claimant was scheduled to work on August 15, 16, and 17. She did not call the employer or client these days to report she was unable to work.

When the claimant did not call or report to work by August 17, the client contacted the employer to end her assignment for excessive absenteeism. The employer then called the claimant and learned she was unable to work that week because she did not have transportation.

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 employer established that the claimant was discharged for excessive, unexcused absenteeism. The claimant was not only absent from work for personal reasons, but she also failed to properly notify the employer how long she was unable to work when she experienced transportation issues. As of August 18, 2010, the claimant is not qualified to receive benefits.

An issue of whether the claimant properly reported her wages as of June 30, 2010, and if she has been overpaid benefits as of August 18, 2010, will be remanded to the Claims Section to determine.

DECISION:

The representative's April 1, 2011 determination (reference 04) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 18, 2010. 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. An issue of whether the claimant properly reported her wages as of June 30, 2010, and has been overpaid benefits as of August 18, 2010 as a result of her employment separation is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw