

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TIA J HARRISON
Claimant

APPEAL NO. 10A-UI-15378-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 09/26/10
Claimant: Respondent (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated October 26, 2010, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 20, 2010. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Sara Taylor participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a cashier-cook for the employer from July 3, 2008, to September 27, 2010. The claimant was informed and understood that under the employer's work rules, regular attendance was required and employees were required to notify the employer if they were not able to work as scheduled. The claimant received warnings for unexcused tardiness on April 11 and September 13, 2010. The claimant was over an hour late on September 13 due to oversleeping. She was warned that her job was in jeopardy due to her repeated tardiness.

The claimant was 16 minutes late for work on September 24, 2010. She did not notify the employer that she was going to be late. She claimed that her lateness was due to car problems.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the

employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. Mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good-faith errors in judgment or discretion are not misconduct within the meaning of the statute. 871 IAC 24.32(1).

871 IAC 24.32(7) provides:

Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The evidence establishes the claimant was discharged for excessive unexcused absenteeism. Her final tardiness was unexcused, and she did not properly notify the employer that she was going to be late.

DECISION:

The unemployment insurance decision dated October 26, 2010, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw