

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALLISSA E RHOADES
Claimant

APPEAL NO: 08A-UI-06932-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

NORTHEAST POLY BAG CO
Employer

OC: 06/22/08 R: 04
Claimant: Respondent (2)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Northeast Poly Bag Company (employer) appealed a representative's July 23 2008 decision (reference 01) that concluded Allissa E. Rhoades (claimant) was qualified to receive benefits and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 13, 2008. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Jim Jared, the production manager, and Wayne Timmerman appeared on the employer's behalf. During the hearing, Employer Exhibits One, Two and Three were offered and admitted as evidence. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on December 7, 2007. The claimant worked as a full-time lead operator. At the time of hire, the claimant received the employer's attendance policy that informed her that the employer would consider her to have voluntarily quit if she was absent two consecutive days without notifying the employer. (Employer Exhibits Two and Three.)

On May 19, 2008, the claimant received a written for poor attendance. (Employer Exhibit One.) The last day the claimant worked was June 11, 2008. The claimant was scheduled to work on June 14 and 15. The claimant did not call or report to work on June 14 and 15. The claimant was not scheduled to work again until June 18. On June 17, the employer terminated the claimant's employment for continued attendance issues.

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 sections 96.5-1, 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 knew or should have known her job was in jeopardy on May 19, 2008, when she received a written warning for attendance issues. The claimant's failure to report to work or notify the employer on June 14 and 15 amounts to an intentional and substantial disregard of the employer's interests. Since the employer had already warned the claimant her job was in jeopardy because of attendance issues, the employer discharged the claimant for work-connected misconduct. As of June 22, 2008, the claimant is not qualified to receive benefits.

Since the claimant has not filed any weekly claims, there is no potential overpayment issue.

DECISION:

The representative's July 23, 2008 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of June 22, 2008. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs