

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on May 10, 2004. The claimant worked as a full-time Internet personal shopper. When the claimant started this employment, she received information that if an employee accumulated eight attendance points, the employer could discharge the employee.

On July 19, 2005, the claimant received a warning she had accumulated 7.5 attendance points. The warning reminded the claimant she could be discharged if she accumulated eight attendance points. (Employer Exhibit One.)

On July 30, the claimant was scheduled to work at 1:15 p.m. The claimant did not report to work until 3:00 p.m. The claimant informed the employer she was late because her parents were not in town and she was responsible for taking care of her younger sister. On July 31, 2005, the claimant was again scheduled to work at 1:15 p.m. The claimant did not report to work until 5:11 p.m. The claimant gave no explanation as to why she was late for work on July 31. The claimant did not notify the employer that she would be late for work either day. On July 31, 2005, the employer discharged the claimant for excessive absenteeism.

The claimant established a claim for unemployment insurance benefits during the week of July 31, 2005. As of September 29, 2005, the claimant has not filed any unemployment insurance claims.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(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 when she received a warning on July 19, 2005, that she had accumulated 7.5 attendance points. The claimant's failure to report to work on time or even notify the employer she would be late for work on July 30 and 31 demonstrates a substantial and intentional disregard of the employer's interests. The employer

discharged the claimant for work-connected misconduct. As of July 31, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's September 1, 2005 decision (reference 01) is reversed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of July 31, 2005. 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.

dlw/pjs