

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GWYNNETTE WRIGHT**  
Claimant

**ROCK KING LP  
BURGER KING**  
Employer

**APPEAL NO. 10A-UI-00380-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**Original Claim: 11/29/09  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated December 30, 2009, reference 01, that held she was discharged for excessive unexcused absenteeism on November 23, 2009, and that denied benefits. A telephone hearing was held on February 16, 2010. The claimant participated. Noel Barr, General Manager, participated for the employer.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds that: The claimant worked as a part-time crew member from May 1, 2009 to November 18, 2009. The claimant called an absence to work due to a childcare issue on November 20, and had someone else call in an absence for her the following day. The claimant was then a no-call, no-show to work and discharged by Manager Barr on November 24. The claimant acknowledged to Barr when discharged she knew she would be fired for failing to call and report for work.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

871 IAC 24.32(7) provides:

(7) 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 administrative law judge concludes that the employer established misconduct in the discharge of the claimant on November 24, 2009, for excessive “unexcused” absenteeism.

The employer’s testimony was consistent with the information provided at fact-finding regarding the claimant’s absences and failure to report to work, which is job-disqualifying misconduct.

**DECISION:**

The representative’s decision dated December 30, 2009, reference 01, is affirmed. The claimant was discharged for misconduct in connection with employment on November 24, 2009. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/kjw