

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DENISE K JUSTICE**  
Claimant

**APPEAL NO: 14A-UI-05933-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**REMEDY INTELLIGENT STAFFING INC**  
Employer

**OC: 05/11/14  
Claimant: Appellant (1)**

Iowa Code § 96.5(2) - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's June 3, 2014 determination (reference 01) 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 participated at the July 2 hearing. Wendy Messenbrink, a customer service supervisor, appeared on the employers' behalf. Based on the evidence, the arguments of the parties, 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 employer assigned the claimant to work for a client on December 10, 2012. The claimant worked at this assignment until July 24, 2013. The client ended her assignment because of the claimant's attendance. The client gave the claimant a second chance and the employer assigned the claimant to the same client on August 9, 2013. When the claimant started working again for this client, the employer reminded her it was extremely important to get to work on time and to notify the employer, Remedy, Intelligent Staffing, Inc., when she was unable to work as scheduled.

The claimant notified the employer after her shift started on September 18, 2013, to report she was unable to work that day. The employer reminded her then that the client had terminated her for attendance issues in late July and it was very important that she work as scheduled and properly notify the employer before her scheduled shift when she was unable to work as scheduled. On September 20, the claimant notified the employer late at 9:45 a.m. that she was unable to work. The claimant started work at 8:00 a.m. The claimant had been unable to call before 9:45 a.m. because she had been at the emergency room and she did not have her phone with her. The claimant requested time off on November 21 to move. On December 23, the claimant did not work as scheduled.

The claimant did not report to work on March 10. She did not contact the employer to report she would be late for work. When the claimant reported to work around 10:00 a.m. the client told the claimant she was no longer needed. The client then contacted the employer and told the employer that the claimant was again no longer needed because of attendance issues. The claimant did not report to work on March 10 at 8:00 a.m. because she was in the process of trying to get insurance on her dog so she could get her dog out of the pound and the dog home.

**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 defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

When the employer and client gave the claimant a second chance, she knew or should have known that if she failed to notify the employer when she was unable to work she could be discharged for attendance issues. The claimant's assertion that she talked to her client supervisor about reporting to work late on March 10 is not supported by the evidence. Since the client informed the claimant she no longer had a job when she reported to work late on March 10, the claimant's assertion that she had permission to report late is not supported by the evidence. Additionally, the employer told the claimant when she was rehired to contact the employer if she was going to be absent or late. The claimant did not notify the employer that she would be late for work on March 10. Since failing to properly notify anyone she would be late or absent from work was the primary reason the claimant was discharged in late July, her failure to again notify the employer that she was unable to work as scheduled shows an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The employer discharged the claimant for reasons amounting to work-connected misconduct.

**DECISION:**

The representative's June 3, 2014 (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of May 11, 2014, the claimant is not qualified to receive unemployment insurance benefits. 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.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css