

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ADRIENNE R VANPELT
Claimant

APPEAL NO. 12A-UI-00078-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

IMKO ENTERPRISES INC
IMKO'S DIVERSIFIED STAFFING
Employer

OC: 11/13/11
Claimant: Appellant (2)

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 21, 2011, reference 01, that she was discharged for excessive unexcused absenteeism on November 8, 2011, and which denied benefits. A telephone hearing was held on January 31, 2012. The claimant participated. The employer did not participate.

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 full-time laborer from August 25, 2011 to November 8. The claimant was dismissed from the assignment for no apparent reason. She denies being a no-call, no-show to work and she denies any attendance problem.

The employer failed to respond to the hearing notice.

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 failed to establish misconduct in the discharge of the claimant on November 8, 2011, for excessive "unexcused" absenteeism. The employer did not participate in this hearing and offer evidence of job-disqualifying misconduct.

DECISION:

The representative's decision dated December 21, 2011, reference 01, is reversed. The claimant was not discharged for misconduct in connection with employment on November 8, 2011. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw