

**IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI**

**MONIQUE D DICKERSON  
2408 E SHERIDAN  
DES MOINES IA 50317**

**PRAIRIE MEADOWS RACETRACK  
AND CASINO INC  
PO BOX 1000  
ALTOONA IA 50009-1000**

**Appeal Number: 06A-UI-04969-HT  
OC: 04/16/06 R: 02  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Monique Dickerson, filed an appeal from a decision dated May 4, 2006, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on May 24, 2006. The claimant participated on her own behalf. The employer, Prairie Meadows, participated by Gina Robinson.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Monique Dickerson was employed by Prairie Meadows from June 20, 2005 until April 17, 2006. She was a full-time dealer. Ms. Dickerson

had been placed on probation twice for attendance problems. The second probation began on February 9, 2006, and she was notified she would be discharged if she had any more unexcused absences in the next 90 days.

The claimant had requested to take the day of April 1, 2006, off for a family function. The request was denied but she still called in absent on that date. When she returned to work on April 4, 2006, she was not allowed to work but was sent home. Two days later the employer contacted her by phone and she explained that her grandfather was dying of cancer, but she did not say that the reason for her absence was to attend a family gathering. The employer told her if she could provide documentation from a physician about this situation it would be taken into consideration. However, the claimant did not provide the information as requested and was discharged by letter on April 17, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

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 claimant had been advised her job was in jeopardy as a result of her absenteeism. The reason for her final absence was not due to any family medical emergency but to attend a family gathering after she had already been denied the day off. There is no evidence that this gathering was anything other than social in nature, regardless of whether her grandfather was, in fact, ill.

Ms. Dickerson maintains she was unable to get any documentation from a physician because her grandmother did not give permission. However, no evidence was presented that her grandfather was not competent to make medical decisions himself. In fact, the claimant stated her grandmother was "out of it" sometimes and did not understand the claimant's need for the information. This causes the administrative law judge to question whether the grandmother was even the proper person to be making medical decisions.

In any event, the claimant did not contact the employer to explain her situation and ask for more time. She made no effort to maintain her job and did not communicate with the employer until after she had been fired.

The record establishes the claimant was discharged for excessive, unexcused absenteeism. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

**DECISION:**

The representative's decision of May 4, 2006, reference 01, is affirmed. Monique Dickerson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/kkf