

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SUSAN E SWORE**

Claimant

**APPEAL NO. 06A-UI-10876-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHECK INTO CASH OF IOWA INC**

Employer

**OC: 10/08/06 R: 04  
Claimant: Respondent (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 2, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 28, 2006. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Judith Mixer participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a manager from February 2006 to October 13, 2006. Her supervisor was the district manager, Judith Mixer. The claimant was informed and understood that under the employer's work rules, employees were required to notify their supervisor if they were not able to work as scheduled. The claimant received a warning on August 21 after she was absent from work 4.5 days. She was informed that she would be discharged for any additional absences.

The claimant called in sick on October 10, 2006. The claimant was absent without notice on October 11. Mixer called the claimant's number and left a message on the answering machine, but the claimant did not return the call. Mixer was required to work for the claimant that day. The claimant reported to work on October 12 but had no explanation regarding her failure to call in a report to work the previous day. Mixer discharged the claimant for excessive unexcused absenteeism.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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(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.

The claimant's violation of a known work rule to call in if she was unable to work as scheduled was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated November 2, 2006, reference 01, is reversed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw