

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NANCY A HANSEN**  
Claimant

**APPEAL NO. 09A-UI-11592-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MID-STEP SERVICES INC**  
Employer

**OC: 07/19/09**  
**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Nancy Hansen, filed an appeal from a decision dated August 13, 2009, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 27, 2009. The claimant participated on her own behalf. The employer, Mid-Step Services, Inc. (Mid-Step), participated by Human Resources Director Jan Hackett. Exhibits One and Two were admitted into the record.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Nancy Hansen was employed by Mid-Step from January 5, 2009 until July 15, 2009 as a full-time residential living assistant. During the course of her employment she received a written warning on May 19, 2009, for absenteeism and a final written warning and one-day suspension on June 1, 2009, for absenteeism. She was advised her job was in jeopardy. Her absences were due to oversleeping, lack of transportation, watching someone else's children, a fight with her boyfriend and one sick day.

On July 14, 2009, she was scheduled to work at 1:30 p.m. and texted a co-worker at 1:00 p.m. to say she would be late. She had gone with her boyfriend to Omaha and was stranded due to car problems. Policy requires her to contact a supervisor by phone. She did call later and spoke with a supervisor at 2:30 p.m. to say she would be in late but was told her shift had already been covered. On July 15, 2009, she was discharged by Supervisor Sonya Scofield.

## 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(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.

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. Her final absence was due to taking a personal trip with her boyfriend to another city and was stranded due to transportation problems. Matters of purely personal consideration, such as car trouble, are not considered an excused absence. *Harlan v. IDJS*, 350 N.W.2d 192 (Iowa 1984). All but one of the claimant's absences were due to such personal problems and were therefore not excused. The final occurrence was also unexcused. Under the provisions of the above Administrative Code section, this is misconduct for which the claimant is disqualified.

**DECISION:**

The representative's decision of August 13, 2009, reference 01, is affirmed. Nancy Hansen is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css