

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**CHANEL C CAUSEY**  
Claimant

**KINSETH HOTEL CORPORATION**  
Employer

**APPEAL 16A-UI-05075-JP-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/10/16**  
**Claimant: Appellant (1)**

---

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 28, 2016 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 16, 2016. Claimant participated. Employer participated through hearing representative Jerry Sander and general manager Lenora Pfeiffer. The front office manager, Trisha Wood, attended the hearing on behalf of the employer but did not testify.

**ISSUE:**

Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a housekeeper/assistant head housekeeper from June 16, 2015 and was separated from employment on April 13, 2016, when she was discharged.

The employer has a written policy for attendance. Employees may have one unexcused absence with no penalty but then their attendance will be monitored for six weeks. If there is another unexcused absence within the six weeks it may result in a suspension. If an employee has three unexcused absences within a calendar year, it may result in further disciplinary action up to and including discharge from employment. A no-call/no-show results in automatic discipline. Employees are required to call in to the employer three hours before the start of their shift if they are going to be absent. Claimant was aware of the policy.

The final incident occurred when claimant was a no-call/no-show on April 12, 2016 to her shift. The employer attempted to contact claimant but her phone was disconnected. On April 13, 2016, claimant arrived to work for her scheduled shift. After claimant clocked in, the employer gave her a separation notice for her no-call/no-show on April 12, 2016. Claimant stated that she did not come into work because she did not have a babysitter and her phone was off. Claimant stated she did not have access to a phone to call the employer.

On February 16, 2016, claimant was given a final written warning for attendance issues. On February 15, 2016, claimant was a no-call/no-show for her scheduled shift. Claimant did not contact the employer during working hours. Claimant was warned her job was in jeopardy. No reason was given on the employer reprimand.

Claimant had prior verbal warnings for absenteeism but they were not documented by the employer. Claimant had unexcused absences on July 12, 2015 (no babysitter), December 12, 2015 (claimant had a headache), February 15, 2016 (no-call/no-show), February 28, 2016 (no ride back from Chicago), and April 12, 2016 (no-call/no-show). Claimant had prior excused absences where she provided doctor's notes.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct. Benefits are denied.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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 determination of whether unexcused absenteeism is excessive necessarily requires consideration of past acts and warnings. The term "absenteeism" also encompasses conduct that is more accurately referred to as "tardiness." An absence is an extended tardiness, and an incident of tardiness is a limited absence. Absences related to issues of personal responsibility such as transportation, lack of childcare, and oversleeping are not considered excused. *Higgins v. Iowa Dep't of Job Serv.*, 350 N.W.2d 187 (Iowa 1984). Absences due to illness or injury must be properly reported in order to be excused. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

An employer's absenteeism policy is not dispositive of the issue of qualification for benefits; however, an employer is entitled to expect its employees to report to work as scheduled or to be notified as to when and why the employee is unable to report to work. Claimant was a no-call/no-show on April 12, 2016. Claimant also had unexcused absences on July 12, 2015, February 15, 2016, and February 28, 2016.

The employer has established that claimant was warned on February 16, 2016, that further unexcused absences could result in termination of employment and the final absence on April 12, 2016, was not excused. The final absence, in combination with claimant's history of unexcused absenteeism, is considered excessive. Benefits are withheld.

**DECISION:**

The April 28, 2016 (reference 01) unemployment insurance decision is affirmed. Claimant was discharged from employment due to excessive, unexcused absenteeism. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Jeremy Peterson  
Administrative Law Judge

---

Decision Dated and Mailed

jp/can