

BOARD OF REVIEW
OKLAHOMA EMPLOYMENT SECURITY COMMISSION
P.O. BOX 53345
OKLAHOMA CITY, OK 73152

Docket No. **18-AT-04530-BR**

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **APRIL 10, 2018**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, _____, reversing the Commission's determination by finding the claimant was discharged from her last employment but not for misconduct connected with the work and allowing benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended. This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The employer's attendance policy provides for discharge if six points are accumulated in a rolling six month period. One point was given for an absence and two points were assessed for a no call, no show. The claimant had accrued four points as of January 31, 2018, after working there less than four months. She was absent due to illness on February 1, but did call in. She was again absent due to illness on February 2, but did not call in that day. Because she did not call, her point total exceeded the amount allowed by policy, and she was discharged. Although her absences were due to illness, which was beyond her control, she was not discharged simply because she was absent from work. It was her failure to call in to report her absence that caused her to exceed the allowable point total. Her failure to report the absence was within her control. Since she did not follow a known and reasonable policy, her discharge is considered to be due to misconduct connected to the work.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is denied benefits effective week ending February 10, 2018, and indefinitely until she becomes re-employed and earns wages equal to or in excess of ten times her weekly benefit amount.

COPIES TO: CLAIMANT
EMPLOYER

APPEAL RIGHTS

Within 30 days after the mailing date of this decision, as shown opposite, further written appeal for judicial review may be filed in the District Court of claimant's county of residence or in the District Court of Oklahoma County if claimant is not a resident of Oklahoma, in accordance with Section 2-610, Title 40, Ok. Stat.

CERTIFICATE OF MAILING

I certify on 06/08/18 I personally placed copies of this decision in the United States mail in envelopes addressed to the claimant and employer at their respective addresses shown on the decision. Said envelopes were sealed and bore indicia of proper postage paid.