

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

Docket No. 16-AT-06415-BR

In Re: Claim of:

CLAIMANT

APPELLANT

Date of Appeal to Board: **APRIL 28, 2016**

OPINION

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, affirming 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 claimant was discharged for excessive absenteeism and performance issues. Her attendance could be described as erratic. She continually refused to follow specific instructions from her supervisors, which resulted in her work having to be repaired and in monetary damage to the employer. Excessive absenteeism is considered to be misconduct under Section 2-406. Additionally, her intentional failure to follow instructions or, at the very least, her indifference to or neglect of her duties constituted a material and substantial breach of her job duties and responsibilities to her employer. The evidence shows the claimant was discharged due to misconduct connected with her work.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is disallowed benefits effective week ending February 27, 2016, 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 7-25-16 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 postage of proper postage paid.