

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VALERIE A ELSBERRY**  
Claimant

**APPEAL NO. 07A-UI-05972-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ENCOMPASS**  
Employer

**OC: 05/13/07 R: 02  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Valerie Elsberry, filed an appeal from a decision dated June 13, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was scheduled to be held by telephone conference call on July 2, 2007.

**ISSUE:**

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

**FINDINGS OF FACT:**

Valerie Elsberry filed a claim for unemployment benefits with an effective date of May 13, 2007. The decision in the present case was issued on June 13, 2007, and disqualified the claimant from receiving benefits.

An amended decision was issued on June 18, 2007, reference 02, which reversed the disqualification and allowed benefits to the claimant.

**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.

The hearing is no longer necessary as the claimant's appeal is rendered moot by the amended decision allowing her benefits.

**DECISION:**

The representative's decision of June 18, 2007, reference 02, is reversed. Valerie Elsberry is qualified for benefits, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs