

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LORRIE L ROBINSON
1110 S FAIRMOUNT
SIOUX CITY IA 51106

PARISIAN VIRGINIA LLC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-11406-DWT
OC: 10/02/05 R: 01
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a – Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Parisian Virginia LLC (employer) appealed a representative's October 26, 2005 decision (reference 01) that concluded Lorrie L. Robinson (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 22, 2005. The claimant participated in the hearing. Courtney Jungers testified on the claimant's behalf. Annie Rostermundt, the assistant store manager in charge of human resources, and Barb Taylor, the claimant's former supervisor, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on November 18, 1999. The claimant worked full time as a sales associate. At the time of hire, the claimant should have received an employee handbook that informed her about the employer's rules of conduct. The employer's rules of conduct state an employee can be disciplined, including discharged, if the employee falsifies any business record or forges a signature.

In early 2005, the claimant requested two days off in August. The claimant wanted to use these two days as personal days so she would be paid for these days. When the claimant did not get paid for the two days she had off in August, she talked to Taylor. Taylor learned that while the claimant had requested the time off, she had not completed the proper paperwork to get paid for these two days. Taylor told the claimant she needed to complete the proper paperwork to get paid for the two days in August. The claimant also talked to the payroll clerk about getting paid for the two days in August. While the payroll clerk would have made it possible for the claimant to receive payment for her two personal days in her next paycheck, the claimant asked the payroll clerk to wait because the claimant did not want to be overpaid.

When the claimant returned from a 10-day vacation in early September, she still had not received payment for her two personal days in August. The claimant did not talk to the payroll clerk again. The claimant then approached Taylor several times about this payment. Generally, when the claimant wanted to talk to Taylor either Taylor or the claimant had a customer or it was not appropriate to talk about the claimant's pay at that specific time.

The claimant concluded Taylor would not help the claimant and did not care if the claimant received payment for the two personal days she took in August. For the week ending September 24, the claimant submitted paperwork requesting 7.5 hours of special pay (a personal day) for a day she actually worked. Although Taylor or another manager is required to sign the paperwork the claimant submitted, the claimant signed Taylor's name on the form.

The payroll employee noticed discrepancies in the paperwork the claimant submitted sometime prior to October 3. After the employer verified with Taylor that she had not signed the document, the employer asked the claimant. The claimant admitted she signed the paperwork because she wanted to get paid. On October 5, 2005, the employer discharged the claimant because she violated the employer's rules of conduct by forging a manager's signature.

The claimant established a claim for benefits during the week of October 2, 2005. She filed claims for the weeks ending October 15 through November 19, 2005. The claimant received a total of \$1,293.00 in benefits for these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a.

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant became frustrated with Taylor when Taylor did not resolve the issue concerning the claimant's payment for two personal days she had taken in August. The claimant decided to take matters into her own hands instead of talking to the payroll person, Rostermundt or another manager. The facts establish the claimant intentionally signed Taylor's name on a document where the claimant requested special pay from the employer. While it would have been easy for the claimant to talk to another person about her pay the claimant do this. Even though the claimant had not previously done anything like this before, her action in signing Taylor's name on the documents in an attempt to get paid for her hours she actually worked shows that the claimant intentionally and substantially disregarded the employer's interests. The claimant committed work-connected misconduct. Therefore, as of October 2, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending October 15 through November 19, 2005. The claimant has been overpaid \$1,293.00 in benefits she received for these weeks.

DECISION:

The representative's October 26, 2005 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 2, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending October 15 through November 19, 2005. The claimant has been overpaid and must repay a total of \$1,293.00 in benefits she received for these weeks.

dlw/tjc