

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSEPH D ECHELBERGER**  
Claimant

**APPEAL NO. 07A-UI-05368-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTROLUX HOME PRODUCTS INC**  
Employer

**OC: 04/30/06 R: 01  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Electrolux Home Products, Inc. (Electrolux) filed an appeal from a representative's decision dated May 15, 2007, reference 01, which held that no disqualification would be imposed regarding Joseph Echelberger's separation from employment. After due notice was issued, a hearing was held by telephone on June 13, 2007. Mr. Echelberger participated personally. The employer participated by Mallory Russell, Human Resources Generalist.

**ISSUE:**

At issue in this matter is whether Mr. Echelberger was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Echelberger was employed by Electrolux from September 7, 2001 until April 16, 2007. He was last employed full time as a cabinet hanger. He was discharged because of his attendance. The employer has a "no-fault" attendance program and employees are not required to give a reason when they report absences.

Mr. Echelberger missed a good deal of work for medical reasons related to an ankle injury. Some of his absences were supported by a doctor's statement. He also saw the company nurse on a number of occasions because of pain in his ankle. His final absence was on April 12 when he properly reported the intent to be absent. The absence was because of problems with his ankle. He was notified of his discharge on April 16, 2007. Mr. Echelberger had received both verbal and written warnings regarding his attendance, the last of which was on April 3, 2007. Attendance was the sole reasons for the discharge.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321

N.W.2d 6 (Iowa 1982). An individual who was discharged because of attendance is disqualified from receiving benefits if he was excessively absent on an unexcused basis. Properly reported absences that are for reasonable cause are considered excused absences. The administrative law judge is not bound by an employer's designation of an absence as "unexcused."

The evidence does not establish any unexcused absences for Mr. Echelberger. The employer did not present evidence of any absences that were not for reasonable cause or that were not properly reported. Excused absences may not form the basis of a misconduct disqualification, regardless of how excessive. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). Inasmuch as the evidence does not establish any unexcused absences, no disqualification is imposed.

**DECISION:**

The representative's decision dated May 15, 2007, reference 01, is hereby affirmed. Mr. Echelberger was discharged by Electrolux but misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/css