

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REBECCA SHELDON**  
Claimant

**APPEAL NO: 07A-UI-04022-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ELECTROLUX HOME PRODUCTS INC**  
Employer

**OC: 05-07-06 R: 01**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the April 10, 2007, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 8, 2007. The claimant participated in the hearing. Mallory Russell, Human Resources Generalist, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time press operator for Electrolux from June 25, 2001 to March 8, 2007. The employer's no-fault attendance policy allows employees to accumulate ten points before their employment is terminated. The claimant carried three and one-half attendance points over from July 1, 2005 through June 30, 2006. On July 26, 2006, she was absent due to illness and received one point; on July 27, 2006, she left early due to illness and received one-half point; on August 9, August 29, September 22, October 4 and December 14, 2006, she left early and received one point for each absence. Although she does not remember the specific reasons for each of those absences she testified she was never absent except for properly reported illness and that she had a doctor's excuse for each absence. On March 1, 2007, she was absent due to blizzard conditions and received one point which put her over the allowed number of attendance points. The claimant lives 33 miles away from the employer and could not travel March 1, 2007, because of the snowstorm. The Governor and state troopers advised the public not to travel as several roads and interstates were closed and travel conditions were dangerous. The claimant received a verbal warning in writing September 22, 2006, after accumulating eight points; a written warning October 4, 2006, after accumulating nine points; a final written warning December 14, 2006, after accumulating ten points; and was terminated March 8, 2007, for accumulating eleven points.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000). While the claimant did exceed the allowed number of attendance points, her absences were due to illness and the final absence was due to weather conditions beyond her control. Consequently, the administrative law judge concludes the claimant's absences do not rise to the level of excessive unexcused absenteeism as defined by Iowa law. Therefore, benefits are allowed.

**DECISION:**

The April 10, 2007, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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