

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BEVERLY BROWN
Claimant

APPEAL NO. 10A-UI-03234-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELECTROLUX HOME PRODUCTS INC
Employer

**Original Claim: 01/10/10
Claimant: Appellant (3)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Beverly Brown (claimant) appealed an unemployment insurance decision dated February 19, 2010, reference 01, which held that she was not eligible for unemployment insurance benefits because she was not able to perform work due injury. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 14, 2010. The claimant participated in the hearing. The employer participated through April Ely, Human Resources Generalist. 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.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was employed as a full-time operator from March 9, 1998 through January 21, 2010, when she was discharged per the work contract. She was off work due to medical reasons and was covered under the Family Leave Medical Act (FMLA) and/or sickness and accident leave (S&A). The employer has a third-party administrator, Unum Providence, who works with employees under FMLA and/or S&A. The contract provides that if an employee fails to notify the company designated administrator on time with all the medical professional orders or instructions or to verify that the application form has been received, the consequences could be loss of sickness and accident benefits, accumulation of attendance points

The claimant continued missing work and failed to contact Unum. A form was provided to her advising that her short-term disability would expire on November 1, 2009 and that Unum needed more information to determine whether the claimant could be covered under unpaid S&A leave. The employer had no medical information explaining the claimant's absences after November 1, 2009. The employer spoke with the claimant on December 21, 2009 and the claimant stated she did not receive the form, so the employer sent it out again on that date. As of January 21,

2010, the employer had not received any information from the claimant. The employer sent the claimant a letter on January 21, 2010 notifying her that her employment was terminated.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant was terminated on January 21, 2010 for repeatedly failing to contact and/or provide the employer's designated administrator with medical documentation explaining why she was unable to work. The claimant denies receiving any requests or paperwork from Unum or the employer, including the termination letter. She contends Unum told her to contact the employer, which is not particularly credible; but, even if she received that direction, she failed to comply. The claimant's failure to comply with company policy shows an intentional and substantial disregard of the employer's interests and of the

employee's duties and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

DECISION:

The unemployment insurance decision dated February 19, 2010, reference 01, is modified in favor of the respondent. The claimant is not eligible to receive unemployment insurance benefits, because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw