

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL J CHRISTY
Claimant

APPEAL NO. 07A-UI-06014-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELECTROLUX HOME PRODUCTS INC
Employer

OC: 06/04/06 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 June 5, 2007, reference 01, which held that no disqualification would be imposed regarding Michael Christy's separation from employment. After due notice was issued, a hearing was held by telephone on July 3, 2007. Mr. Christy participated personally and was represented by Jerry Boyd, UAW Local #1540. Exhibit A was admitted on Mr. Christy's behalf. The employer participated by Teresa McLaughlin, Human Resources Generalist. Exhibit One was admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Christy 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. Christy was employed by Electrolux from March 2, 1998 until May 17, 2007. He was last employed full time as a utility operator. He was discharged because of his attendance. All of his absences were due to either his own illness or that of a child. All absences were properly reported. There were no issues of tardiness in reporting to work.

Mr. Christy received several warnings concerning his attendance. The employer tracks attendance on a point system and an individual is subject to discharge if he reaches a zero point balance. Because Mr. Christy reached zero points, he was discharged on May 17, 2007. Attendance was the sole reason for the separation.

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. There must be a current act of unexcused absenteeism to support a disqualification from benefits. See 871 IAC 24.32(8).

The evidence of record failed to establish a current unexcused absence. Even if the absence of April 19, 2007 was considered unexcused, it would not be a current act in relation to the May 17, 2007 discharge date. 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 Mr. Christy because of its attendance policy, 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 employer has failed to establish a current act of misconduct, no disqualification is imposed.

DECISION:

The representative's decision dated June 5, 2007, reference 01, is hereby affirmed. Mr. Christy was discharged by Electrolux but disqualifying misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs