

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN R MCCAULLEY
Claimant

APPEAL NO. 10A-UI-06905-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELECTROLUX HOME PRODUCTS INC
Employer

**Original Claim: 11/15/09
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The employer, Electrolux, filed an appeal from a decision dated April 29, 2010, reference 01. The decision allowed benefits to the claimant, Dawn McCaulley. After due notice was issued, a hearing was held by telephone conference call on June 30, 2010. The claimant participated on her own behalf. The employer participated by Human Resources Generalist April Ely.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Dawn McCaulley was employed by Electrolux from May 10, 1999 until March 22, 2010 as a full-time production floater. Her last day of work was December 17, 2009, due to a medical problem with her eye, which she filed as a workers' compensation claim.

On February 5, 2010, the claimant's doctor sent a note to the employer stating she was still not able to return to work and would not be able to do so for an indefinite period of time. The employer determined to discharge the claimant effective March 22, 2010, because there was no medical evidence she would be able to return to work and perform the essential functions of her job.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was discharged because she was not medically able to work under her doctor's orders. This is not misconduct, as it is not volitional and the employer was fully aware of the situation at all times.

DECISION:

The representative's decision of April 29, 2010, reference 01, is affirmed. Dawn McCaulley is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw