

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAUL R BURTON

Claimant

APPEAL NO. 07A-UI-01936-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

EATON CORPORATION

Employer

**OC: 01/21/07 R: 01
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Eaton Corporation filed a timely appeal from an unemployment insurance decision dated February 13, 2007, reference 01, that allowed benefits to Paul R. Burton. After due notice was issued, a telephone hearing was held March 13, 2007 with Mr. Burton participating. Exhibit A was admitted into evidence of his behalf. The employer, the appellant in this matter, did not provide the name and telephone of any witnesses.

ISSUE:

Did the claimant leave work with good cause attributable to the employer? Was the claimant discharged for misconduct in connection with his employment?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Paul R. Burton was employed by Eaton Corporation as a sequencer from August 2, 2002 until May 10, 2006. On or about May 5, 2006 Mr. Burton requested and received permission to take a leave of absence without pay for a personal business reason. On May 10, 2006, however, he received a letter from the company stating that it considered that he had resigned because he had missed work without contact for three days. Mr. Burton had not intended to resign his employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Mr. Burton's employment ended under disqualifying separations. It does not. The evidence establishes that Mr. Burton did not intend for the employment to end. Because of this, the administrative law judge cannot conclude that he voluntarily left employment. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980). While excessive unexcused absenteeism is one form of misconduct, the evidence establishes that Mr. Burton was absent with the knowledge and consent of the employer. Therefore, the administrative law judge concludes that misconduct has not been established. No disqualification may be imposed.

DECISION:

The unemployment insurance decision dated February 13, 2007, reference 01, is affirmed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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