

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINE E DIETZ**  
Claimant

**ELEVATE PROPERTY MANAGEMENT LLC**  
Employer

**APPEAL NO. 13A-UI-01903-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/20/13**  
**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge for Misconduct  
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

**STATEMENT OF THE CASE:**

The claimant appealed a department representative's decision dated January 25, 2013, reference 01, that held she was discharged for excessive unexcused absenteeism on January 4, 2013, and benefits are denied. A hearing was held on February 28, 2013. The claimant participated. Tracie Iverson, HR Manager, participated for the employer.

The department issued the same employment separation decision for January 4, 2013 on two different claim years, January 22, 2012 and January 20, 2013. The later department decision and appeal (13A-UI-01903-ST) was not included at the time the February 28, 2013 hearing was held.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, finds that: The ALJ decision in appeal 13A-UI-01106-ST regarding claimant's January 4, 2013 employment separation is dispositive of this appeal matter. The department issued two separation decisions based on different claim years, but both apply to the same employment separation on January 4, 2013. There is no need to hold a second hearing on the same employment separation that was determined in the February 28, 2013 hearing.

**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.

The administrative law judge concludes the ALJ decision the employer failed to establish misconduct in the discharge of the claimant on January 4, 2013, for excessive "unexcused" absenteeism in Appeal #13A-UI-01106-ST is dispositive of the issue in this matter.

The department issued duplicate employment separation decisions on the same issue due to different claim years. A hearing was held on February 28, 2013 on this issue and a decision was issued.

**DECISION:**

The decision of the representative dated January 25, 2013, reference 01, is reversed. The claimant was not discharged for misconduct in connection with employment on January 4, 2013. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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