

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICKI S PARKER**  
Claimant

**APPEAL NO. 07A-UI-10960-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**J D CARPENTER COMPANIES**  
Employer

**OC: 10/28/07 R: 03  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Vicki Parker filed an appeal from a representative's decision dated November 20, 2007, reference 01, which denied benefits based on her separation from J D Carpenter Companies. After due notice was issued, a hearing was held by telephone on December 12, 2007. Ms. Parker participated personally and offered additional testimony from Lisa Daufeldt and Sandy Knouse. The employer responded to the notice of hearing but the designated witness was not available at the number provided at the scheduled time of the hearing. The individual who answered the telephone indicated that no one else was available to participate on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Ms. Parker 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: Ms. Parker was employed by J D Carpenter Companies from June 20, 2006 until October 30, 2007. She worked full time as a fuel desk clerk. She was discharged based on an allegation of dishonesty.

The employer participates in an incentive program known as "Ambucks," which rewards drivers with points for purchasing fuel. The fuel desk clerk enters information concerning the fuel purchase and then swipes the driver's "Ambucks" card so that points can be added to his or her account. The employer believed Ms. Parker was adding extra points to her boyfriend's "Ambucks" card. Some drivers who do not want their points will give them to the next driver in line. Ms. Parker never gave her boyfriend any points he was not entitled to receive. She was not given any other reason for the discharge.

**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). Although the employer alleged dishonest acts on the part of Ms. Parker, the employer did not participate in the hearing to offer testimony in support of the allegation. The employer did not offer any documentary evidence to substantiate its contentions.

Ms. Parker was credible in her testimony and there was no testimony to refute her. She denied having engaged in any inappropriate conduct with regard to the "Ambucks" program. Inasmuch as the employer had the burden of proof and has not submitted evidence to sustain its burden, it is concluded that misconduct has not been established. As such, there is no basis on which to disqualify Ms. Parker from receiving benefits.

**DECISION:**

The representative's decision dated November 20, 2007, reference 01, is hereby reversed. Ms. Parker was discharged, but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw