

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JERED J LONG**  
Claimant

**APPEAL NO. 06A-UI-11331-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LENSCRAFTERS INC**  
Employer

**OC: 10/29/06 R: 03  
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Lenscrafters, Inc. filed an appeal from a representative's decision dated November 17, 2006, reference 01, which held that no disqualification would be imposed regarding Jered Long's separation from employment. After due notice was issued, a hearing was held by telephone on December 12, 2006. Mr. Long participated personally and Exhibit A was admitted on his behalf. The employer participated by Nick Hosch, Lab Manager, and was represented by Barb Hamilton of TALX Corporation. Exhibits One through Five were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Mr. Long 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. Long was employed by Lenscrafters, Inc. from March of 2003 until October 12, 2006. With the exception of his first three months of employment, he was at all times a full-time certified lab technician. He was discharged after a series of disciplinary actions.

The final incident that prompted the discharge occurred on September 20, 2006. Glasses Mr. Long was to have inspected did not meet standards. When questioned, he indicated that he had not done the inspection as required and as indicated on the records. Management conferred with human resources and the decision was made to discharge Mr. Long. He was not discharged until October 12, 2006. During the interim between September 20 and October 12, he continued to perform his normal job. Mr. Long had received several warnings concerning his failure to properly inspect glasses before releasing them to customers.

**REASONING AND CONCLUSIONS OF LAW:**

Mr. Long was discharged from employment. 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). The employer's burden included establishing that the discharge was predicated on a current act of misconduct. 871 IAC 24.32(8). In the case at hand, the discharge was prompted by the failure to properly inspect glasses on September 20. The discharge did not occur until three weeks later. Even allowing for a reasonable amount of time, one or two weeks, to investigate the matter and confer with human resources, the incident still would not constitute a current act of misconduct in relation to the discharge date.

After considering all of the evidence, the administrative law judge concludes that the employer has failed to satisfy its burden of proving that Mr. Long was discharged for a current act of misconduct. Although his conduct constituted acts of misconduct, the fact that there was no current act precludes imposing a disqualification from job insurance benefits. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated November 17, 2006, reference 01, is hereby affirmed. Mr. Long was discharged but a current act of misconduct has not been established. Benefits are allowed, provided he 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/css