

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRENDA HARNAN
Claimant

STARBUCKS COFFEE CO
Employer

APPEAL 15A-UI-07609-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/07/15
Claimant: Respondent (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

STATEMENT OF THE CASE:

The employer filed an appeal from the June 22, 2015, (reference 01) unemployment insurance decision that allowed benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on July 30, 2015. Claimant participated. Employer participated through district manager, Mary Richman. Michele Hawkins of Equifax/Talx represented the employer. Employer's Exhibit 1 was received. The administrative law judge took official notice of the administrative record, including fact-finding documents.

ISSUES:

Was the claimant discharged for disqualifying job-related misconduct?

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a store manager from April 14, 2008, and was separated from employment on June 1, 2015, when she was discharged. On March 29, 2015, claimant did not pay shift supervisor Amanda for one hour of over-time worked that pay period and intended to add the hour to the next pay period in violation of the company policy. (Employer's Exhibit 1) Richman found out about the issue on April 6. Another manager Amanda (Mindy) Bauercamper submitted the information to the Seattle office. Claimant returned to work on April 8 and was told she was subject to an investigation that may impact her job status. She admitted she did as alleged because she did not want to have overtime hours paid in last week of the fiscal quarter. The policy calls for immediate termination for violation of the time record-keeping policy.

Claimant was on vacation when the Seattle office instructed Richman to fire her. Claimant returned to work on June 1, when she was discharged.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has presented substantial and credible evidence that claimant falsified a subordinate employee's time record such that overtime was not properly paid. This act of dishonesty is disqualifying misconduct even without prior warning.

DECISION:

The June 22, 2015, (reference 01) unemployment insurance decision is reversed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her

weekly benefit amount, provided she is otherwise eligible. Since no benefits were paid for weeks claimed, no overpayment is established.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css