

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER A HARRIS
Claimant

APPEAL NO. 14A-UI-00301-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 12/08/13
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Jennifer Harris, filed an appeal from a decision dated January 8, 2014, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on February 5, 2014. The claimant participated on her own behalf. The employer, Casey's, participated by Assistant Manager Tanyelle Arthur. Exhibit One was admitted into the record.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Jennifer Harris was employed by Casey's from June 26, 2012 until December 14, 2013 as a part-time cashier. At the time of hire she received the employee handbook. One policy prohibits the consumption of food from the store, or removing food from the store, without first paying for it. Violation of the policy was grounds for immediate discharge.

The employees had become very lax in following this policy. On November 22, 2013, Store Manager Deb Behrens gave each employee a copy of the policy and wrote "Final Warning" at the top. Ms. Harris signed she had read it on November 23, 2013.

On December 8, 2013, the claimant got a package of Gummy Bears, opened it and ate some of the contents before paying for it. She maintained she paid for it but not for at least two hours or so. The employer reviewed several hours of video surveillance and did not see any purchase nor could any record be found on the register journal records.

After the investigation the claimant was discharged on December 14, 2013, by Ms. Behrens.

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.

871 IAC 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.

The claimant violated a known company rule. Although she maintained at first she never received the policy, and then maintained she did not remember signing the final warning, it is apparent the policy had been distributed and she had every opportunity to read what she was signing.

The employer has the right to protect its assets by requiring payment for food before an employee consumes it. The claimant violated a known company rule. This is conduct not in the best interests of the employer and the claimant is disqualified.

DECISION:

The unemployment insurance decision dated January 8, 2014, reference 01, is affirmed. Jennifer Harris is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs