

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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LINN GROVE IA 51033

CASEY'S MARKETING CO  
CASEY'S GENERAL STORE  
C/O TALX UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-08926-ET  
OC: 07-31-05 R: 01  
Claimant: Appellant (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 17, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 13, 2005. The claimant participated in the hearing. Rob Wells, Area Supervisor, participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time manager for Casey's General Store from April 27, 1987 to July 13, 2005. She was discharged for failing to consistently maintain day sheets, file invoices,

and organize her office. On March 9, 2005, she received a written warning because her office was unorganized and the day sheets and invoices were not stapled together. On May 20, 2005, the claimant received her annual performance review and was told there were still things that were not being done with regard to the paperwork. On June 23, 2005, she received a written warning for an unorganized office, and the day sheets and inventory not being stapled together. The employer told her that she had until July 10, 2005, to correct the problem. On July 13, 2005, the previously discussed duties were not done to the employer's expectations. The claimant testified she was trying to keep up on the current paperwork but could not catch up on the backlog. The claimant had experienced several personal tragedies, including the death of her parents, and was also hospitalized for a surgery to deal with a severe infection. In November 2004 the assistant manager quit and moved and the claimant was without an assistant for a period of time until the employer hired another Casey's employee to be her assistant manager. The claimant felt that assistant was well-qualified and helpful, but she resigned in March 2005 and the claimant was left without an assistant for two months and had to work both her own and her former assistant's hours. In May 2005 another assistant manager was hired but did not pick up the training quickly and the claimant was often forced to come in on her days off to help, leaving her with very little time off from the store. When Area Supervisor Rob Wells returned to the store July 13, 2005, and the office, day sheets and invoices were not done to his satisfaction, he notified the claimant her employment was terminated.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). While the claimant had trouble managing the paperwork, she was trying to hold that store together seemingly by herself. In addition to dealing with difficult personal, emotional and physical issues, without adequate time off, she also had to train a series of assistant managers, as well as hourly employees, and as the manager often had to work when any of the other employees called in or were unable to work. While those duties are part of a manager's job, and the paperwork is obviously an important aspect of the business, the evidence does not establish that the claimant intentionally disregarded the employer's interests in failing to keep the paperwork current and organized in the manner expected by the employer. Consequently, the administrative law judge concludes the claimant's actions do not rise to the level of disqualifying job misconduct as defined by Iowa law. Therefore, benefits are allowed.

#### DECISION:

The August 17, 2005, reference 01, decision is reversed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

je/kjw