

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ODYSSEY V RICH**  
Claimant

**APPEAL NO. 12A-UI-03272-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WESTAR FOODS INC**  
Employer

**OC: 02/12/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 27, 2012 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on April 12, 2012. Claimant participated. Employer participated through District Manager John Kelchen. Claimant's Exhibit A was admitted to the record.

**ISSUE:**

Did employer discharge claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a shift leader from June 2010 and was separated from employment on February 14, 2012. She handed a letter to a drive through to a customer that said, "Jew, you owe me \$80 for speakers. Remember. Pay me." She wrote the note rather than verbally relaying the information to the customer because she did not want to "make a scene." The customer, who goes by the name Jew on MySpace and Facebook, complained to the corporate office. The employer has a no-solicitation policy prohibiting employees from conducting business while at work. Claimant had no prior warnings.

**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.

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 employer has presented substantial and credible evidence that claimant violated the no-solicitation policy by attempting to collect a personal debt from a customer while at work. This was disqualifying misconduct. Benefits are denied.

**DECISION:**

The March 27, 2012 (reference 01) decision is affirmed. 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.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/kjw