

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALAN T ELINGS**  
Claimant

**APPEAL NO. 08A-UI-00310-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA BAGELS INC**  
Employer

**OC: 12/09/07 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated January 2, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on January 24, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Mike Eastwood participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as an assistant manager from August 19, 2004, to December 10, 2007. The claimant was informed and understood that under the employer's work rules, security procedures required that the safe be locked except when it was being used. He had been warned about this policy in May 2007 and for not making bank deposits in a timely manner in November 2006.

On December 10, 2007, the area manager, Mike Eastman, visited the store shortly after the claimant had reported to work and discovered the safe was unlocked. The claimant was not the person who left the safe unlocked; it was the person in charge of opening the restaurant who had neglected to lock the safe. The claimant had not had time to go through the process of taking over the safe yet at the time Eastman came in.

The employer discharged the claimant for leaving the safe unlocked on December 10, 2007, after having been warned in the past about similar conduct.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. 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 substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

No willful and substantial misconduct has been proven in this case. At most the employer has shown the claimant did not take over the store fast enough, which would be unsatisfactory conduct not disqualifying misconduct under the unemployment insurance rules.

**DECISION:**

The unemployment insurance decision dated January 2, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css