

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARMIN K BROWN
Claimant

APPEAL NO. 12A-UI-08846-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 10/02/11
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 16, 2012, reference 02, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on August 28, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a cashier for the employer from April 23 to June 16, 2012. The employer discharged the claimant because there were two gas drive-offs on her shift. The claimant did everything she could to prevent the gas drive offs and never did anything deliberate to cause them. During the second gas drive-off, another employee was at the cash register while the claimant was picking up trash outside. He failed to obtain payment from the customer who had put gas in his vehicle and pulled his vehicle in front of the store before coming in.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim.

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.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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, 11 (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. Repeated negligence equaling willful misconduct has not been proven.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account may be chargeable for benefits paid to the claimant based on this separation from employment.

DECISION:

The unemployment insurance decision dated July 16, 2012, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw