

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMIE L MORRIS**

Claimant

**APPEAL NO. 06A-UI-10182-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 09/17/06 R: 04  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Casey's Marketing Company filed an appeal from a representative's decision dated October 9, 2006, reference 01, which held that no disqualification would be imposed regarding Jamie Morris' separation from employment. After due notice was issued, a hearing was held by telephone on November 1, 2006. Ms. Morris participated personally and offered additional testimony from Debbie Gibson and Debra Sabel. The employer participated by Melanie Neumiller, Area Supervisor.

**ISSUE:**

At issue in this matter is whether Ms. Morris was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Morris was employed by Casey's from September 2, 2003 until September 18, 2006. She was last employed full-time as a manager, a position she was promoted to in March of 2004. Ms. Morris was discharged because she did not report money variances and did not discipline employees as directed.

Employees are to be warned if they have variances in their register by a minimum of \$5.00. A daily sheet is maintained showing which cashiers had variances and the amounts of such variances. Total variances in the store were to be reported to the area supervisor on a daily basis if in excess of \$5.00. A voicemail message containing the required information could be left for the supervisor. Ms. Morris was to conduct an audit if the store's variances were by a minimum of \$50.00 in any given month.

Ms. Morris was given a written warning on July 7, 2006 because she was not disciplining employees who had variances and was not reporting variances on a daily basis. Shortages for the month of June totaled \$399.00. Ms. Morris acknowledged that she had not been following policy up to that point. When the problem persisted, she was given an additional written

warning on September 6. The shortages for August exceeded \$500.00. Ms. Morris did provide some written warnings for variances after the warning in July but not on all occasions for which one was required. She did call the supervisor on some occasions after July 7 to report variances but not on all occasions when required.

The decision to discharge Ms. Morris was based on the fact that she was still failing to issue warnings for variances and still failing to call the supervisor on a daily basis to report variances. When the supervisor was in the store on September 13, she noted that written warnings had been prepared for two employees and were in a desk drawer. When she returned to the store on September 18, she found that the warnings still had not been given to the employees. Ms. Morris called the supervisor on September 18 to report variances but had not called at all during the prior week. As a result of the continuing failure to follow policies, Ms. Morris was discharged on September 18.

Ms. Morris filed a claim for job insurance benefits effective September 17, 2006. She has received a total of \$2,160.00 in benefits since filing her claim.

#### **REASONING AND CONCLUSIONS OF LAW:**

Ms. Morris was discharged from employment. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Morris was discharged for not performing her manager's duties on a regular basis as required. She had not been calling in her variances or disciplining employees for variances when she was warned in July. She knew from the July warning that the employer considered these tasks vital and that a failure to perform them might jeopardize her continued employment. Although there was some improvement in her performance, the problem persisted and she was again warned on September 6.

In spite of the September 6 warning, Ms. Morris still failed to perform the required duties. Written warnings prepared on or about September 13 had not been presented to the employees as of September 18. She did not call at all to report variances during the week ending September 16. If employees are not warned about conduct, they are not inclined to take steps to correct deficiencies. It was Ms. Morris' responsibility, as manager, to discipline employees so that they would be more likely to use due care in handling the employer's funds. By not conducting timely discipline, Ms. Morris allowed the problem with cash shortages to go uncorrected. Moreover, the failure to discipline employees might prevent the employer from successfully defending a protest to a claim for job insurance benefits. If the area supervisor is not advised of the continuing problem with cash shortages, the supervisor cannot take timely steps to identify and correct the problem. When the problem of cash shortages is not addressed, the store is more likely than not going to continue suffering losses from such shortages. Financial losses are clearly contrary to the employer's best interests.

Ms. Morris had ample notice in the form of two warnings that her performance regarding disciplining employees and reporting shortages was not up to the employer's standards. The administrative law judge is not inclined to believe that Ms. Morris could not have found a few minutes in her workday to leave a voicemail message for her supervisor regarding variances. The administrative law judge is likewise not inclined to believe that she could not have found a like amount of time in which to present employees with disciplinary action forms.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that the employer has satisfied its burden of proving that Ms. Morris was discharged due to a substantial disregard of the employer's standards and interests. Accordingly, benefits are denied. Ms. Morris has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

**DECISION:**

The representative's decision dated October 9, 2006, reference 01, is hereby reversed. Ms. Morris was discharged by Casey's for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Morris has been overpaid \$2,160.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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