

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAVERNE HART

Claimant

APPEAL NO. 06A-UI-11596-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MURPHY OIL USA INC

Employer

**OC: 11/05/06 R: 03
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Laverne Hart filed an appeal from a representative's decision dated November 30, 2006, reference 01, which denied benefits based on her separation from Murphy Oil USA, Inc. (Murphy). After due notice was issued, a hearing was held by telephone on December 19, 2006. Ms. Hart participated personally and Exhibit A was admitted on her behalf. The employer participated by Sandy Minnaert, Manager. Exhibit One was admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Hart 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. Hart was employed by Murphy from March 18 until November 3, 2006 as a full-time cashier. She was discharged from the employment. The discharge was prompted by the fact that she conducted shift-change activities 45 minutes early on November 2. The person who is relieving the cashier on duty is to be present when the shift change occurs. The person coming on duty is required to count the drawer to make sure the required \$50.00 is there to start the shift. Ms. Hart performed all of the tasks necessary for shift change, except she performed them before the person relieving her arrived. As a result, she was discharged on November 3.

In making the decision to discharge, the employer also considered other incidents that occurred during the employment. Ms. Hart failed to clock in and out on July 2 and July 3. On August 7, she failed to ring up a \$50.00 telephone card, causing her drawer to be \$50.00 over. The overage was reconciled the following day. On October 24, Ms. Hart gave 30 minutes' notice that she would be absent rather than the required three-hour's notice. She had gone to the dentist and believed she would still be able to go to work. However, she could not, because of pain.

REASONING AND CONCLUSIONS OF LAW:

Ms. Hart was discharged by Murphy. 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). For reasons that follow, the administrative law judge concludes that disqualifying misconduct has not been established. Ms. Hart's failure to clock in and out on July 2 and July 3 were isolated instances of such conduct. The same is true of her failure to ring up the \$50.00 telephone card purchase.

Ms. Hart used poor judgment in performing the shift-change duties 45 minutes early. The employer did not identify any adverse consequences as a result of her actions. The incidents cited by the employer are not sufficient, either singly or in combination, to establish a substantial disregard of the employer's interests or standards. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons cited herein, benefits are allowed.

DECISION:

The representative's decision dated November 30, 2006, reference 01, is hereby reversed. Ms. Hart was discharged, but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw