

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY K KLOSTERMANN
Claimant

APPEAL NO. 08A-UI-06969-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

LOWE'S HOME CENTERS INC
Employer

OC: 06/15/08 R: 04
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Lowe's Home Centers, Inc. (employer) appealed a representative's July 21, 2008 decision (reference 01) that concluded Kimberly K. Klostermann (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 13, 2008. The claimant participated in the hearing. Kochell Weber, the human resource manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on October 2, 2002. The claimant worked as a full-time administrative manager. The store manager supervised the claimant. The claimant understood the employer's cash handling policy.

On May 25, the claimant received a call from the store manager asking if she would report to work early the next day so the store could open at 6:00 a.m. The claimant understood the employer would contact other employees to help the claimant get the cash and cash registers ready so the store could open at 6:00 a.m. The claimant went to the work early and called the head cashier to find out when she would be work. The claimant learned the head cashier had not been contacted and did not know the employer wanted her to report to work early. The head cashier could not be at work until 6:00 a.m. or shortly after 6:00 a.m.

In an attempt to get the store ready so it could open at 6:00 a.m., the claimant handled the cash bags and then put the cash in the registers. The claimant knew she was not following the employer's cash-handling procedure but did not know any other way to get the cash registers ready so the store could open at 6:00 a.m.

After the head cashier arrived at work, around 6:00 a.m., she signed paperwork that would normally be signed by the second person putting the cash in the registers. The claimant did not ask the head cashier to sign the paperwork. At the end of this day, the cash registers were not long or short.

On June 7, an employee reported that the claimant asked her on May 26 to sign paperwork that the head cashier ultimately signed. This employee declined to sign the paperwork. The employer discharged the claimant on June 21 for an integrity issue or for failing to follow the employer's cash handling procedure on May 26.

In early December 2007, the employer gave the claimant a written warning for another integrity issue. In December the claimant received a warning for using her employee discount card improperly. If the claimant violated the employer's cash handling procedure before May 26, the employer did not know about these incidents.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant. On May 26, the claimant did not follow the employer's cash handling policy. After the claimant learned the head cashier had not been told to be at work early on May 26, she did what she believed she had to do to get the store ready to open at 6:00 a.m. The claimant used poor judgment when she did not report to the store manager what she had done so the store would open at 6:00 a.m. Even though the claimant did not follow the employer's cash handling procedure, she did not ask anyone to sign paperwork to indicate the proper procedure had been followed. Based on a preponderance of the credible evidence, the claimant did not commit work-connected misconduct. As of June 15, 2008, the claimant is qualified to receive benefits.

DECISION:

The representative's July 21, 2008 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of June 15, 2008, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw