

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMIE L MELLIES**  
Claimant

**APPEAL NO. 11A-UI-13972**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 09/25/11  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The employer, Casey's, filed an appeal from a decision dated October 12, 2011, reference 01. The decision allowed benefits to the claimant, Tammie Mellies. After due notice was issued, a hearing was held by telephone conference call on November 16, 2011. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Manager Kathy Edwards.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

**FINDINGS OF FACT:**

Tammie Mellies was employed by Casey's from April 13 until September 19, 2011 as a part-time cashier. On Saturday, September 17, 2011, Assistant Store Manager Christine contacted Manager Kathy Edwards and asked her to come to the store to view some video surveillance footage. When Ms. Edwards arrived Christine stated two vicodin pills had been removed from the prescription bottle in her purse the night before.

The video surveillance footage of the cash register area of the store was viewed at that time, the footage recorded the activity of the claimant on September 16, 2011 from 3:55 to 4:00 p.m. It showed the claimant moving Christine's purse to a shelf below the cash register and rummaging around in it, removing her hand from the purse and putting something in her pocket. The next day Ms. Edwards met with the claimant and notified her she was being fired and gave her the reason. The claimant denied the theft and was allowed to view the footage several times. She asserted she had not been in Christine's purse but was rummaging around on the shelf to find the "slider" which was a device for a specific type of credit card transaction. But the employer pointed out the "slider" was on the third shelf and the purse was on the second shelf. The claimant still denied the theft.

Ms. Edwards said she would have her supervisor view the video and make the final decision. The supervisor came on September 19, 2011, and concurred with the decision to discharge. The claimant was notified of the final decision at that time.

Tammie Mellies filed a claim for unemployment benefits with an effective date of September 25, 2011. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing.

**REASONING AND CONCLUSIONS OF 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.

1 Iowa Code section 96.5-1-c provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

The claimant was discharged for theft from a co-worker. The employer's testimony was based on viewing the video of the incident several times and interviewing the claimant. The claimant was allowed to view the video and could not provide an adequate explanation of her actions on the footage. She also did not participate in the hearing to refute any of the employer's testimony. The record establishes the claimant was discharged for misconduct and benefits are denied.

**DECISION:**

The representative's decision of October 12, 2011, reference 01, is reversed. Tammie Mellies is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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