

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHELLEY FELICE**  
Claimant

**APPEAL NO: 12A-UI-11742-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FEDERAL EXPRESS CORP**  
Employer

**OC: 09/02/12**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Shelley Felice (claimant) appealed an unemployment insurance decision dated September 21, 2012, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Federal Express Corporation (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 25, 2012. The claimant participated in the hearing. The employer participated through Christopher Higgins, Operations Manager and Michelle Hawkins, Employer Representative. 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. Employer's Exhibits One and Two were admitted into evidence.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time courier from November 7, 1999 through August 30, 2012 when she was discharged for throwing a customer's package on the porch on August 25, 2012. When delivering a package, employees are first supposed to knock on a customer's door and if the customer is not home, the employee is directed to place the package down near the door. Employees are never allowed to toss or throw a package and they are informed of this at the time of hire and throughout their employment.

However, the employer received a lot of negative publicity around Christmas 2011 when someone posted a You Tube Video of a Federal Express employee throwing a package. The employer subsequently went over the rules with all employees and retrained them on the requirements of package delivery.

The claimant delivered a package to a customer on August 25, 2012. She never went to the door and did not even walk up the steps to the porch but instead threw or tossed the customer's

package onto the porch. The customer was in the garage and filmed the package delivery. The customer subsequently complained about the claimant's package delivery and sent the employer a copy of the video. The claimant admits she did not go to the customer's door and admits she tossed the package but denies throwing the package.

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

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

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.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

The employer has the burden to prove the discharged employee is disqualified for benefits due to work-related misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989). The claimant was discharged on August 30, 2012 for violating company policies by throwing a customer's package up onto the porch near the customer's door. She knew her actions were in violation of the employer's policies and knew her job could be in jeopardy for violating these policies. The claimant's conduct shows a willful or wanton disregard of the standard of behavior the employer has the right to expect from an employee, as well as an intentional and substantial disregard of the employer's interests and of the employee's duties

and obligations to the employer. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated September 21, 2012, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs