

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

JAMIE L EBERHART
PO BOX 7
DELMAR IA 52037

FAMILY DOLLAR SERVICES INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166 0283

Appeal Number: 05A-UI-03317-DWT
OC: 02/20/05 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Jamie L. Eberhart (claimant) appealed a representative's March 21, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits, and the account of Family Dollar Services, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 15, 2005. The claimant participated in the hearing. Taryn Barret and Harvey Meade 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 April 7, 2003. The claimant worked full time at the employer's distribution center. The claimant normally worked in the repack area. On February 17, 2005, the bulk center needed help and the employer assigned the claimant to work in this area. Work in this area included putting labels on products that were to be shipped out.

The claimant became upset at work or reported to work upset because he would not be driving a stock car as a co-worker previously told him he would be able to do. As a result of being upset, the claimant threw away a batch of labels in the garbage. The labels were to be put on product that was to be shipped to other location(s).

Someone found the labels in the trash. The operations manager, Scott Hall, talked to the claimant on February 17 about a safety issue and the labels that had been found in the garbage. The claimant admitted he had thrown away the labels because he was upset with another employee over a personal matter. The employer discharged the claimant on February 23, 2005 for throwing away the labels.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 claimant's action in throwing away labels he was given to place on product that needed to be shipped out amounts to an intentional and substantial disregard of the standard of behavior the employer had a right to expect from an employee. The claimant threw away the labels because he was upset with another employee concerning a personal matter. Additionally, another employee had to find the labels in the garbage before the employer had any idea there was a problem. The claimant committed work-connected misconduct. As of February 20, 2005, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 21, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of February 20, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

dlw/sc