

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

LADONNA A POGGENPOHL
903 PAGE ST
IOWA CITY IA 52240

CHECK INTO CASH OF IOWA INC
c/o THOMAS & THORNGREN
PO BOX 280100
NASHVILLE TN 37228

Appeal Number: 05A-UI-03394-DWT
OC: 03/06/05 R: 03
Claimant: Appellant (2)

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:

Ladonna A. Poggenpohl (claimant) appealed a representative's March 25, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Check Into Cash of Iowa, 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 19, 2005. The claimant participated in the hearing. Chris Fulk, the district 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 September 13, 2004. She worked as a full-time center manager. Fulk became the claimant's supervisor on October 1, 2004.

Sometime prior to December 2004, the claimant opened an account for E.M., which meant E.M. could obtain cash advances from the employer. Fulk hired S. to work as a customer service representative at the claimant's facility in December. The claimant knew S. was a single parent who lived with her parents.

In February 2005, the claimant gave E.M. an advance. Shortly after completing this transaction, the claimant learned E.M. was the father of S.'s baby. E.M. started calling the claimant's facility many times during the day in an attempt to get S. to go out with him. S. told the claimant that E.M. was harassing her. E.M.'s calls became frustrating and the claimant asked Fulk if she could close his account because E.M. was harassing S. Fulk agreed that E.M.'s account could be closed.

After his account was closed, E.M. became very upset when the claimant's facility refused to give him an advance. On March 4, E.M. lodged a complaint with the employer's corporate office and made various allegations regarding S. That same day Fulk learned about E.M.'s complaint.

The employer's investigation revealed that E.M. had been at the claimant's facility a number of times. The employer's videotape indicated that E.M. and S. frequently talked to one another at work. During the investigation, the employer learned E.M. was the father of S.'s baby. The employer decided the claimant violated the employer's policy that prevented employees from conducting business with family or close friends. The claimant knew about this policy because she previously had to close her sister's account. The employer discharged the claimant on March 7, 2005 for violating this rule.

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 concluded the claimant knew about the relationship between S. and E.M. when S. started her employment. The facts do not, however, support this conclusion. Based on the employer's investigation, the employer discharged the claimant for business reasons. The facts do not establish that the claimant intentionally violated the employer's rules. The evidence shows just the opposite in that the claimant followed the employer's rules by closing her sister's account. The claimant may have been ignorant of some facts and used poor judgment when she did not immediately disclose to Fulk information about S. and E.M.'s relationship as soon as she learned about it. This alone does not amount to misconduct. The facts do not establish that the claimant intentionally and substantially disregarded the employer's interests. Therefore, as of March 6, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 25, 2005 decision (reference 01) is reversed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of March 6, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefit paid to the claimant.

dlw/pjs