

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ELLEN L FREDERICK**  
Claimant

**APPEAL NO. 07A-UI-05386-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS DAIRY INC.**  
Employer

**OC: 05/06/07 R: 01  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated May 23, 2007, reference 01, that concluded the claimant was discharged for work-connected misconduct. A telephone hearing was held on June 11, 2007. The parties were properly notified about the hearing. The claimant participated in the hearing. Connie Hickerson participated in the hearing on behalf of the employer with a witness, Wendy Lee.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from March 18, 1998, to May 7, 2007, as a production worker. The claimant was informed and understood that under the employer's work rules, theft was grounds for immediate discharge.

On May 3, 2007, the claimant stole the wallet of another employee that contained over \$100.00 in cash. Initially, when she was confronted by a manager about the missing wallet, she did not admit that she had taken it. The next day, the claimant felt guilty about taking the wallet and turned it in to the police. When she reported to work on May 5, she reported to her supervisor that she had taken the wallet. On May 7, 2007, the employer discharged the claimant for theft.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance 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.

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 claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Her change of heart regarding her actions does not change the fact that her actions constitute misconduct. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated May 23, 2007, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw