

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHANNON M BOWEN**  
Claimant

**APPEAL NO. 08A-UI-03890-H**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE CARPET STORE**  
Employer

**OC: 03/23/08 R: 02  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, The Carpet Store, filed an appeal from a decision dated April 15, 2008, reference 01. The decision allowed benefits to Shannon Bowen. After due notice was issued, a hearing was held in Carroll, Iowa, on June 17, 2008. The claimant participated on her own behalf. The employer participated by Co-owner Denise Riley. Exhibit A was admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Shannon Bowen was employed by The Carpet Store from September 11, 2007, until March 23, 2008, as a full-time sales associate. On March 23, 2008, co-owners Denise and Matthew Riley went to the store where the claimant worked to discuss certain issues with her regarding her performance. Some of these issues included the store not being open during the posted hours, Ms. Bowen had her husband working in the store when he was not an employee and she was told it was not allowed, missing inventory, and the employer having to do too many “follow-ups” to make sure the claimant had done her job duties as assigned.

The employer had had difficult experiences with Ms. Bowen in the past and had come to the store prepared to discharge her if the counseling session did not go well. The employer played a recording of the conversation and the claimant was very belligerent and hostile to the owners. She accused them of being “too demanding and too controlling,” and she said that she was in a “pissy mood,” told them that the entire conversation was “bullshit,” and that they were “not nice.” She later said that she had a “fucking nasty temper,” and then again referred to the meeting as “crap.”

At the end of the conversation, the employer gave the claimant her final two checks and requested her to turn in her keys.

The claimant's Exhibit A consisted of written statements from customers and a person she had hired to clean the store's windows. They expressed opinions the claimant was professional and courteous.

Shannon Bowen has received unemployment benefits since filing a claim with an effective date of March 23, 2008.

**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.

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 was discharged by the employer for poor work performance. The employer was willing to work with the claimant to try and improve her performance, but her conduct at that meeting was unacceptable. She was aggressive, abusive, and threatening. While she did not utter any specific threats against the employer, her entire attitude was so hostile and aggressive that it amounted to the same thing.

The statements from the customers may be true in as far as their relations with the claimant. However, Ms. Bowen's conduct toward the employer was the cause of her discharge. Her conduct was insubordinate, hostile, and belligerent. This is a violation of the duties and obligations an employer as a right to expect of an employee and constitutes conduct not in the best interests of the employer. The claimant was discharged for substantial job-related misconduct and is disqualified from receiving unemployment benefits.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled and these must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of April 15, 2008, reference 01, is reversed. Shannon Bowen is disqualified and benefits are withheld until she has requalified by earning ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$2,180.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

kjw/kjw