

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RONDA R DEHNING**  
Claimant

**APPEAL NO. 09A-UI-07330-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**Original Claim: 04/05/09  
Claimant: Appellant (2)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Ronda Dehning filed an appeal from a representative's decision dated May 4, 2009, reference 01, which denied benefits based on her separation from Casey's Marketing Company. After due notice was issued, a hearing was held by telephone on July 1, 2009. Ms. Dehning participated personally and was represented by Kevin Schoeberl, Attorney at Law. The employer participated by Michael Meyer, District Manager, and was represented by Nancy Duboise of TALX Corporation

**ISSUE:**

At issue in this matter is whether Ms. Dehning was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Dehning was employed by Casey's from September 30, 1999 until March 17, 2009. She was employed full time as store manager during the last three years of her employment. She was discharged as a result of conduct that occurred on February 27 and March 9, 2009.

It was reported that Ms. Dehning made disparaging comments regarding an area supervisor's sexual preferences on February 27 and March 9. The conduct was reported to human resources by the areas supervisor on March 10. Ms. Dehning continued to perform her normal job until discharged on March 17.

**REASONING AND CONCLUSIONS OF LAW:**

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The employer's burden included establishing that the discharge was prompted by a current act of misconduct. See 871 IAC 24.32(8). In the case at hand, the final

conduct that triggered Ms. Dehning's discharge was known by the employer by no later than March 10. However, the employer did not discharge her until a week later. The employer already had written statements confirming the behavior. Therefore, there was no need for an investigation.

Ms. Dehning could have been suspended pending a further determination regarding her status. Alternatively, she could have been advised during the interim that she was being considered for discharge. Given the employer's delay in discharging Ms. Dehning, it is concluded that a current act of misconduct has not been established. Accordingly, benefits are allowed.

**DECISION:**

The representative's decision dated May 4, 2009, reference 01, is hereby reversed. Ms. Dehning was discharged, but a current act of misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw