

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TORRO T ROBERTS
Claimant

APPEAL NO. 09A-EUCU-00403-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GOODWILL INDUSTRIES OF THE
HEARTLAND**
Employer

OC: 01/04/09
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Torro Roberts filed an appeal from a representative's decision dated October 23, 2009, reference 06, which denied benefits based on his separation from Goodwill Industries of the Heartland. After due notice was issued, a hearing was held by telephone on November 24, 2009. Mr. Roberts participated personally. The employer participated by Greg Kriegermeier, Vice President of Retail Operations and Kelle Aiken, Coralville Store Manager. The employer was represented by Heather Cichon of Xchanging/Cambridge. The hearing record was left open to allow submission of a video surveillance recording. The hearing reconvened on January 5, 2010 with the same parties participating. Employer's Exhibit One was admitted to the record.

ISSUE:

At issue in this matter is whether Mr. Roberts 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: Mr. Roberts was employed by Goodwill from April 19 until October 5, 2009 as a full-time production clerk. He was discharged due to theft. On the evening of September 25, he kept money he obtained from a customer as payment for goods.

The customer brought items to Mr. Roberts' station. He entered a price into the register and then hit the "clear" key. The customer gave him money and he entered additional numbers into the register. He then hit the "clear" key again. He bagged the customer's purchases. The customer was not given a receipt or any change. All items in the store are priced at either \$.38 or \$.88. Mr. Roberts did not place any money into the register. After this customer left, he began waiting on the next customer. While doing so, he unfolded the money that had been given him by the first customer and placed in his vest pocket.

The matter came to the employer's attention on September 29. The employer was already in the process of investigating two customer complaints that sales were not being rung up. Mr. Roberts' actions were viewed on the surveillance tape. As a result of his actions, he was discharged on October 5, 2009.

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). Mr. Roberts was discharged for theft. He received money from a customer but did not turn it over to the employer as expected and required. Theft from one's employer is clearly contrary to the type of behavior an employer has the right to expect. It is, therefore, misconduct sufficient to warrant a disqualification from job insurance benefits.

DECISION:

The representative's decision dated October 23, 2009, reference 06, is hereby affirmed. Mr. Roberts was discharged for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css