

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANNA S JOHNSON
Claimant

APPEAL NO: 13A-UI-06953-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 05/19/13
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's June 6, 2013 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Cindy Seaba, the store manager, and Brett Carlson, the second assistant manager, appeared on the employer's behalf. During the hearing, Claimant Exhibit A and B were offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for employer in May 2009. She worked in the kitchen and made pizzas.

On January 17, 2013, the claimant received a written warning for bringing a personal problem with a co-worker to work. Even though the other employee was arrested for physically attacking the claimant, the employer gave the claimant a written warning for the verbal confrontation she engaged in with this employee before the physical altercation took place. The warning informed the claimant that all personal issues had to be dealt with outside of work hours and if the claimant failed to follow this directive the next time she would be terminated. (Claimant Exhibit A.)

The claimant and the employee who baked cookies did not get along. On May 13, this employee put cookies she had baked on the claimant's work area. When the claimant asked the employee to move the cookies, the employee ignored the claimant. The claimant then moved the cookies to another area so she could use her work area for pizzas. After the claimant moved the cookies to another area, the employee put more cookies in claimant's work area. The claimant became frustrated with this employee and told her, "I don't care, I don't like you. Get out of my kitchen and stay out!" Carlson overheard the claimant's comments.

Customers in the store also heard the claimant's comments. The employee who baked cookies asked the employer if she could leave work early because she was upset by the way the claimant talked to her.

On May 14, the employer discharged the claimant for the May 13, 2013 incident because this was the second time she had been involved in a verbal confrontation with another employee. (Claimant Exhibit B.)

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 law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

After the claimant received the January 17, 2013 written warning for engaging in a verbal confrontation with another employee, she knew or should have known the employer did not tolerate such conduct. On May 13, even though the employee who baked cookies was being unreasonable, the claimant's verbal attack toward this employee was not warranted. The claimant could have brought management into the kitchen to resolve the space problem. The claimant committed work-connected misconduct when she again engaged in a verbal confrontation with a co-worker at work. The claimant is not qualified to receive benefits.

DECISION:

The representative's June 6, 2013 determination (reference 01) is affirmed. The employer discharged the claimant for work-connected misconduct. As of May 19, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs