

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDSAY HALSTEAD**  
Claimant

**APPEAL NO. 14A-UI-07115-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 06/15/14**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Casey's Marketing Company (employer) appealed a representative's July 2, 2014, decision (reference 01) that concluded Lindsay Halstead (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 30, 2014. The claimant participated personally. The employer participated by Tracy Meza, Area Supervisor, and Alisha Weber, Unemployment Insurance Consultant. The employer offered and Exhibit One was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer as an assistant manager from September 2, 2012, through July 13, 2013. While the claimant was an assistant manager she had access to a test code for the car wash at that location.

She was rehired on November 4, 2013, as a full-time pizza delivery person. The claimant signed for receipt of the employer's handbook on November 4, 2013. On June 9, 2014, the employer issued the claimant a written warning and suspension for altering a coworker's medical excuse. The employer notified the claimant that further infractions could result in termination from employment.

On June 15, 2014, someone told the employer that while the claimant was an assistant manager, she gave the test code to an employee. That employee gave the test code to other people and someone put the test code on Craig's List. The claimant denied giving the test code to anyone. The employer terminated the claimant on June 17, 2014.

The claimant filed for unemployment insurance benefits with an effective date of June 15, 2014. The employer participated personally at the fact-finding interview on July 1, 2014, by Alisha Weber.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

The employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). If a party has the power to produce more explicit and direct evidence than it chooses to do, it may be fairly inferred that other evidence would lay open deficiencies in that party's case. Crosser v. Iowa Department of Public Safety, 240 N.W.2d 682 (Iowa 1976). The employer had the power to present testimony but chose not to do so. The employer did not provide first-hand testimony at the hearing and, therefore, did not provide sufficient eye witness evidence of job-related misconduct to rebut the claimant's denial of said conduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed.

**DECISION:**

The representative's July 2, 2014, decision (reference 01) is affirmed. The employer has not met its proof to establish job related misconduct. Benefits are allowed.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs