

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY M WESTENDORF
Claimant

APPEAL NO: 14A-UI-01917-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC
Employer

**OC: 01/26/14
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 12, 2014 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 at the hearing. Scott Bergman and Amy Bakken testified on the claimant's behalf. Teresa McLaughlin, Dave Greiner, the store supervisor, and Jared Thompson, an assistant manager, appeared on the employer's behalf. During the hearing, Employer Exhibit One was 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 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 the employer in July 2003. She worked as a full-time grocery clerk. The employer's policy informs employees that coupon fraud will be dealt with severely and on a case-by-case basis. (Employer Exhibit One.) Prior to January 16, 2014, the claimant's job was not in jeopardy. She had not received any warnings on how she handled coupons.

During the claimant's employment, the claimant has accepted coupons from customers and knew that other cashiers have accepted coupons from customers when a customer has not specifically met all coupon terms. Bakken, a customer and coupon shopper, follows the terms of a coupon, but knows Fareway readily accepts coupons. If a cashier scans a coupon and it is accepted, the cashier does not question the customer. Even if the register does not pick up the scanned coupon, Fareway cashiers accept the coupon and manually input the coupon value in the register. While employees from another store may have been disciplined or discharged for not using coupons correctly, the claimant had never been warned and did not know anyone at her store that had been disciplined for not following the employer's coupon policy.

On January 16, the claimant bought five cases of beer and gave the cashier, a part-time employee, manufacturer's coupons. The claimant gave the cashier coupons that required a bag of chips and a pizza to be bought for the coupon to be valid. The cashier did not scan the coupons; she manually entered them into the register. The cashier did not say anything to the claimant. The cashier gave the claimant \$5 off of each case of beer she bought. The claimant did not buy any chips or pizza.

After the claimant purchased the beer and left, the part-time cashier told management about this transaction. The cashier indicated she felt obligated to accept the coupons from the claimant. The employer then asked the cashier to write a written statement. Thompson also made a written statement. He concluded the coupons the claimant gave the cashier had not been used correctly.

When the claimant came to work the next day, the employer asked her about the beer purchase she had made the day before. The claimant acknowledged she used the coupons and did not understand that she had done anything incorrectly. She told the employer she did not think what she had done was any big deal because using coupons like she had done happened all the time. The claimant did not understand what coupon fraud was. The employer suspended the claimant on January 17, 2014. On January 24, 2014, the employer discharged the claimant for committing coupon fraud.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

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).

The employer established business reasons for discharging the claimant. The facts show the claimant did not understand what the employer considered coupon fraud. The claimant understood that if a cash register accepted a coupon, cashiers were to accept the coupon without question. Even if a register did not scan in the value on a coupon, a cashier then manually accepted the coupon. The claimant understood the employer wanted to keep

customers happy. The part-time employee allegedly accepted the claimant's coupons because she was intimidated by the claimant, a full-time employee. Since this employee did not testify, her motivation for accepting the coupons and then reporting the transaction a short time later to management is not known.

The facts reveal the claimant, a customer, gave the part-time employee coupons which she did not question and accepted. If the cashier had questioned the claimant's use of the coupons, it is not known what would have happened.

While management may want cashiers to strictly comply with the terms on coupons, the evidence indicates this was not enforced at the location where the claimant worked. It is clear the claimant did not understand that she violated the employer's policy when she gave the cashier coupons for beer she purchased on January 16. Based on the facts in this case, the claimant did not commit work-connected misconduct. As of January 26, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's February 12, 2014 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the claimant did not commit work-connected misconduct. As of January 26, 2014, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs