

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**VICTORIA L CONNOR**  
Claimant

**APPEAL NO. 07A-UI-08734-NT**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**CASEYS MARKETING COMPANY**  
Employer

**OC: 08/12/07 R: 01  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of a representative dated September 5, 2007, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 1, 2007. Although notified the claimant did not participate. The employer participated by Mary Ann Majors, Area Supervisor. Exhibits One, Two and Three were received into evidence.

**ISSUES:**

At issues in this matter are whether the claimant was discharged for misconduct in connection with her work and whether the claimant has been overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds the claimant worked for this employer from August 17, 2001 until August 8, 2007 when she was discharged for violation of company policy. Ms. Connor last held the position of store manager. She was employed on a full-time basis and paid by salary. The claimant's immediate supervisor was Mary Ann Majors.

The claimant was discharged after she admitted violating established company policy by failing to report cash shortages as required. The claimant was aware of her responsibility to report shortages to company management but failed to do so as she was "in fear of losing her job." At the time of discharge the claimant admitted failing to report the shortages as required.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes based upon the evidence in the record that the employer has sustained its burden of proof in establishing that Ms. Connor's discharge took place under disqualifying conditions. The evidence establishes that Ms. Connor was aware of the requirement that she report shortages to company management, but failed to do so. When

the matter was investigated, Ms. Connor admitted that she had intentionally failed to report the shortages as she was "in fear of losing her job." Failure to follow established company rules and policies shows an intentional disregard for the employer's interests and standards of behavior and thus is disqualifying conduct under the provisions of Iowa Employment Security Law.

871 IAC 24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

For the reasons stated herein the administrative law judge finds that the claimant was discharged for misconduct. Unemployment insurance benefits are withheld.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Because the claimant's separation was disqualifying benefits were paid to which the claimant was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. The claimant is overpaid benefits in the amount of \$746.00.

**DECISION:**

The representative's decision dated September 5, 2007, reference 01, is hereby reversed. The claimant was discharged for misconduct. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the claimant's weekly benefit amount, providing the claimant meets all other eligibility requirements of Iowa law. The claimant has been overpaid unemployment insurance benefits in the amount of \$746.00. However, \$144.00 of this amount has been set up on a separate issue leaving a net overpayment of \$602.00.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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