

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STACEY J FAWCETT
Claimant

APPEAL NO. 13A-UI-05554-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 04/14/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Stacey Fawcett filed a timely appeal from a representative's decision dated April 30, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on June 12, 2013. Claimant participated. The employer participated by Ms. Pamela McGriff, Store Manager.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct in connection with her work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Stacey Fawcett was employed by Casey's Marketing Company from August 14, 2007 until March 28, 2013 when she was discharged for violation of the company's policy against selling alcohol to minors. Ms. Fawcett was most recently employed as a full-time first assistant manager and was paid by the hour. Her immediate supervisor was the store manager, Ms. McGriff.

At approximately 10:00 p.m. on the evening of March 28, 2013, Ms. Fawcett sold a six-pack of beer to an 18-year-old individual without asking for his ID, scanning it or inputting it into the company's cash register system for age verification, as required. Company policy requires that the identification be visually checked or scanned into the company's computerized cash register system if an alcohol or cigarette purchaser appears to be 27 years of age or younger.

Ms. Fawcett was busy at the time and did not check the purchaser's ID, subsequently the claimant was informed that she had been caught in a sting operation and was ticketed.

Based upon the company policy, which is strictly enforced, the claimant's failure to check the ID as required resulted in her termination from employment. Ms. Fawcett was aware of the policy and had signed an acknowledgement for the receipt of the policy.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the claimant was discharged for misconduct in connection with the work. It does.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

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.

The employer has the burden of proof in this matter. See Iowa Code section 96.6-2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. The focus is on deliberate or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

In this case the claimant was discharged when she failed to follow a strict company policy that required her to visually check the ID of an individual for any purchases of alcohol or cigarettes that appeared to be 27 years of age or younger. Ms. Fawcett was discharged after she sold beer to an 18-year-old customer without checking his ID as required. The claimant was caught in a "sting" type operation and ticketed for her offense.

The employer had in place a policy that requires employees to check the ID of individuals that are 27 years of age or younger to ensure that clerks are checking all individuals who purchase alcohol or cigarettes who even appear over or under the required age. The claimant did not follow the required policy and was discharged due to the serious nature of the matter and the

strictness of the rule and was aware that violation could result in her a termination from employment.

Although sympathetic to the claimant's situation, the administrative law judge must conclude that the employer has sustained it burden of proof in establishing that the claimant's discharge took place under disqualifying conditions. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated April 30, 2013, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css