

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A SIMMONS

Claimant

APPEAL NO: 06A-UI-09277-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

**OC: 08/20/06 R: 02
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Julie A. Simmons (claimant) appealed a representative's September 13, 2006 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Casey's Marketing Company (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 3, 2006. The claimant responded to the hearing notice by calling the Appeals Section prior to the hearing and providing the phone number to contact her for the hearing. The claimant's phone number was called and she was not available for the scheduled hearing. A message was left for the claimant to contact the Appeals Section immediately. The claimant did not call the Appeals Section again. Shelly Zuck, the general manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on August 9, 2005. The claimant worked as a full-time kitchen person and cashier.

In June 2006, the cash register that the claimant operated was short and the employer talked to her about proper cash handling procedures. On August 14, the claimant worked the 6:00 a.m. to 2:00 p.m. shift as a cashier. At the end of the claimant's shift, the register recorded the claimant's transactions and the money in the drawer was counted. During the claimant's shift, the cash register drawer was \$109.34 short.

When Zuck started to investigate this cash discrepancy, the claimant reported that she had not posted any voids during her shift. The employer then started reviewing the store's tapes to see if the tapes revealed what may have happened to the missing money. After the claimant

noticed Zuck reviewing the store tapes, she asked if the employer saw the claimant waving a 50-dollar bill at the camera. The claimant reported she had placed the 50-dollar bill in the drawer and then obtained change.

The employer never saw the claimant waving any money in front of the store's security camera during her shift. Zuck saw the claimant three or four times in the cash register for no apparent reason, saw that she had money in her hands and that her wallet and purse were on the counter. The cameras never recorded what the claimant did with the money she had in her hands.

Based on the amount of money that was missing, the employer discharged the claimant on August 18, 2006. The employer discharged the claimant for improperly handling cash and for failing to protect the employer's assets.

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. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

Without any information from the claimant as to what happened on August 14, a preponderance of the evidence indicates she committed work-connected misconduct on August 14. Therefore, the claimant is not qualified to receive unemployment insurance benefits as of August 20, 2006.

DECISION:

The representative's September 13, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that constitute work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 20, 2006. 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/cs