

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

COREY GREENE

Claimant

APPEAL NO: 14A-UI-01854-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

OC: 01/19/14

Claimant: Respondent (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 10, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 3 and continued on April 23, 2014. The claimant participated in the hearing. Angie Himes, Store Manager and Alicia Weber, Employer Representative, participated in the hearing on behalf of the employer. Employer's Exhibits One through Seven were admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time second assistant manager for Casey's from April 23, 2007 to January 23, 2014. She was discharged for failing to correctly do the weekend books on several occasions.

On January 10, 2012, the claimant received a written warning because she did the books but did not "secure the money in a lock bag at the bank. Deposit bag with money was still at the store" (Employer's Exhibit One). On May 14, 2012, the claimant received a written warning because she "did the books for 05-12-12 with a cashier being short \$22.66. Deposit was then lock bagged for the weekend at the bank. Monday when the manager went to the bank there was an additional \$20.00. That date was then short and then Monday's book had to be done long to correct" (Employer's Exhibit Two). The warning stated that "all money must be verified so we can tell which cashiers may need assistance and to deter theft" and instructed the claimant to "verify all bank money, including bundles" (Employer's Exhibit Two). On May 2, 2013, the claimant received a written warning because the "books were short due to miscount of money in lock bag at the bank" April 20, 2013 (Employer's Exhibit Three). The claimant was directed that "all lock bags will be verified before leaving the store with a calculator tape ran and the amount to complete the deposit circled. Also, a note left at the store stating the payback amount for what day sheet" (Employer's Exhibit Three). On November 13, 2013, she received a

written warning because she “was in charge of doing books on November 8th and 9th. Sunday morning’s books were over \$97.10. This was due to miscounted money in the lock bags at the bank. To correct this, we have books short on the 12th” (Employer’s Exhibit Four). The expected behavior in the future stated the claimant needed to “verify all bank money before it goes to the bank” and take the bundles of cash apart when counting” (Employer’s Exhibit Four).

On January 23, 2014, the employer completed a corrective action statement informing the claimant the “bank money for the day sheet dated 01/17/2014 was short \$50.00. I had to return to the store to get \$50.00 to correct the deposit. Which then shorted the books for 01/21/2014. In viewing cameras, Corey did not open all her bundles of money to verify the correct amount going to the bank. Previous corrective actions stated that ‘Corey would verify money, including taking bundles apart, before it goes to the bank’” (Employer’s Exhibit Six). The employer terminated the claimant’s employment January 23, 2014 (Employer’s Exhibit Seven).

The claimant has claimed and received unemployment insurance benefits since her separation from this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proving disqualifying misconduct. 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 substantial and 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).

In this case the claimant made five cash handling/deposit errors during the last two years of her employment. While cash handling is obviously a very important aspect of the employer's business, there is no evidence the claimant intentionally made the errors cited by the employer. The employer did not suspect the claimant of theft but rather found her mistakes careless. The claimant should have counted the \$500.00 bundles of cash as directed by the employer in the written warning of November 14, 2013. Ideally she would not have made any errors while being responsible for the employer's weekend deposits but everyone does make mistakes. Under these circumstances, the administrative law judge cannot conclude that five errors in two years rises to the level of intentional, disqualifying job misconduct as that term is defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The February 10, 2014, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs