

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

STEPHON D TALLEY
623 W 9TH ST
DAVENPORT IA 52803

DOLGENCORP INC
DOLLAR GENERAL
c/o COMP TAX MGR
PO BOX 34150
LOUISVILLE KY 40232

Appeal Number: 04A-UI-03071-DWT
OC 02/15/04 R 04
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Dollar General (employer) appealed a representative's March 11, 2004 decision (reference 01) that concluded Stephon D. Talley (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 7, 2004. The claimant participated in the hearing. Laurie Hively, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, 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 worked for the employer about a year. He worked full time as an assistant manager. The employer's policy requires employees to immediately deposit cash picked up from registers into the employer's safe.

On February 13, 2004, the claimant picked up some cash from a front register. On his way back to the office to put the cash in the safe, an employee indicated she had to use the restroom immediately. The claimant put the envelope that contained the cash by the phone so he could temporarily relieve the cashier. When the cashier came back, the claimant became involved with customers. He forgot about the cash he had not yet deposited and started doing other duties.

When the claimant did the books at closing, he discovered the shortage. The claimant then remembered he had not deposited some cash in the safe. He looked for the cash and could not immediately find it. The envelope the cash was in had been dislodged and had fallen into the trash. The claimant reported the incident to Hively.

The employer discharged the claimant on February 14 because he failed to protect the employer's assets by putting it in the safe in a timely manner. The employer's policy indicates this amounts to gross misconduct and is subject to immediate termination. Prior to the February 13 incident, the claimant's job was not in jeopardy.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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).

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).

The employer established business reasons for discharging the claimant when the claimant failed to deposit cash from a register into the employer's safe. On February 13, the claimant may have used poor judgment when he set the cash by a phone so he could temporarily relieve a cashier. He then forgot about the cash when he became distracted with his other work duties. This isolated incident does not amount to an intentional or substantial disregard of the employer's interests. The claimant made a mistake, but he did not commit work-connected

misconduct. Therefore, as of February 15, 2004, he is qualified to receive unemployment insurance benefits.

DECISION:

The representative's March 11, 2004 decision (reference 01) is affirmed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of February 15, 2004, the claimant is qualified to receive unemployment insurance benefits, provided he meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/kjf