

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHELLE L FISHER**  
Claimant

**APPEAL NO. 08A-UI-10579-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEYS MARKETING COMPANY**  
Employer

**OC: 10/05/08 R: 01**  
**Claimant: Respondent (2/R)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

Casey's Marketing Company (employer) appealed a representative's October 31, 2008 decision (reference 01) that concluded Michelle L. Fisher (claimant) was qualified to receive 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 December 8, 2008. The claimant participated in the hearing. Chris Jones, an assistant 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 employer hired the claimant to work as a full-time pizza cook on March 19, 2008. After the claimant worked about a week, she informed the store manager, Tammy Stephens, she had written some bad checks to the employer before she had been hired. The claimant explained that she wanted to pay back the amount she had written in bad checks, but she needed a job to do so.

The employer directed her to contact a law firm who represented the collection firm. The employer told the claimant she could continue her employment if she worked out a payment agreement and did not miss any payments. Although the employer's policy states in part that a new employee must pay off bad checks to the employer within 30 days to remain employed, the claimant was allowed to take more than 30 days, but could not miss any payment.

The claimant talked to the collection firm's attorney. The parties agreed the claimant would make monthly payments. The claimant understood the attorney's office would contact her each month to let her know how much she needed to pay that month. The claimant's monthly payments varied. After the claimant made a June payment, she had paid off about \$600.00 of the \$800.00 or \$1,100.00 she owed the collection company.

In July 2008, the claimant moved and her phone was shut off for one day. The claimant called the attorney's office to explain that if anyone had called when she had moved, her phone had been disconnected for one day. The claimant understood the payment she owed for July had not been determined. The claimant expected the attorney's office to call her again in July to let her know how much she needed to pay the collection company that month. When the claimant did not receive a call from the attorney's office, she assumed she had paid off all the money she owed the collection company. The claimant did not make any more payments and did not call the attorney's office again to verify she had satisfied her debt.

On October 6, 2008, the employer informed the claimant she was discharged because she failed to make payments on bad checks she had written to the employer before she became an employee.

#### **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. 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 facts establish the last payment the claimant made to the collection firm for the bad checks she wrote to the employer was in June 2008. Since the claimant understood her continued employment was conditioned on the fact she did not miss any payments, her failure to again contact the attorney's office to find out what she owed for July, August and September amounts to an intentional and substantial disregard of the employer's interests. The claimant's assertion that she assumed she had paid off the debt is not credible since she owed \$800.00 to \$1,100.00 and had only paid about \$600.00 after the June payment. The claimant had three months to verify whether she still owed money or whether she had satisfied her debt. The claimant did not act responsibly in meeting the conditions of her employment when she failed to contact the attorney's office anytime after the July conversation. Based on the facts in this case, the claimant committed work-connected misconduct because she failed to make scheduled payments she had agreed to make to satisfy the bad checks she wrote to the employer. As of October 5, 2008, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's October 31, 2008 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 5, 2008. 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. The issue of overpayment of benefits or waiver of any overpayment is remanded to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css