

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANET H BEHNING**  
Claimant

**APPEAL NO. 08A-UI-11130-SW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KUM & GO LC**  
Employer

**OC: 10/05/08 R: 01**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated November 13, 2008, reference 01, that concluded she was discharged for work-connected misconduct. A hearing was held on January 12, 2009, in Sioux City, Iowa. The parties were properly notified about the hearing. The claimant participated in the hearing with a witness, Sally Behning. Sheryl Sands participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked for the employer as a sales associate from April 22, 2008, to September 2, 2008. The claimant was informed and understood that under the employer's work rules, she was not to allow customers to take merchandise without paying for it and was to look at the identification of any purchasing alcohol who appeared to be under the age of 30.

On August 30, 2008, the claimant allowed a customer to take nachos from the store without paying for them and sold liquor to minors without looking at their identification. On September 2, 2008, she also left the store unattended to smoke a cigarette. While she was outside, her boyfriend at the time took beer from the store without paying for it with the claimant's knowledge.

When the store manager discovered the conduct on August 30 and September 2, she discharged the claimant for selling liquor to minors and allowing customers to take merchandise without paying for it.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case.

**DECISION:**

The unemployment insurance decision dated November 13, 2008, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw