

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EILEEN K BARCLAY
Claimant

APPEAL NO. 09A-UI-15627-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR GENERAL
Employer

**Original Claim: 09/20/09
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Dollar General filed an appeal from a representative's decision dated October 9, 2009, reference 01, which held that no disqualification would be imposed regarding Eileen Barclay's separation from employment. After due notice was issued, a hearing was held by telephone on November 19, 2009. Ms. Barclay participated personally. The employer participated by Jason Hanika, Store Manager.

ISSUE:

At issue in this matter is whether Ms. Barclay was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Barclay was employed by Dollar General from April 16, 2003 until September 18, 2009. She was last employed full-time as an assistant manager. She was discharged due to poor cash-handling.

Ms. Barclay received a written warning on June 7, 2009 because she was \$10.00 short. She attributed the shortage to giving an extra \$10.00 in change to a customer because she was not paying attention. The decision to discharge was based on the fact that she was \$35.39 short on September 17, 2009. She was again not paying attention and returned the customer's check to the customer along with the customer's receipt. She was discharged the next day. The above matter was the sole reason for the separation.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Barclay was discharged as a result of two cash shortages. She acknowledged that she was negligent on both occasions, as she was not paying attention to

what she was doing. Negligence constitutes disqualifying misconduct only if it is so recurrent as to manifest a substantial disregard for the employer's interests and standards.

In the case at hand, the employer presented evidence of only two occasions of negligence on Ms. Barclay's part. The employer did not present evidence that she had been warned about other shortages during the six years she worked for Dollar General. The administrative law judge does not consider two occasions of negligence over a six-year period to be so recurrent as to establish a substantial disregard of the standards the employer had the right to expect. While the employer may have had good cause to discharge Ms. Barclay, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated October 9, 2009, reference 01, is hereby affirmed. Ms. Barclay was discharged by Dollar General, but disqualifying misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw