

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A KNAPP
Claimant

APPEAL NO. 07A-UI-04649-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

REGIS CORP
Employer

**OC: 04/08/07 R: 03
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Regis Corp (employer) appealed a representative's April 25, 2007 decision (reference 01) that concluded Julie A. Knapp (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 May 23, 2007. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which she could be contacted to participate in the hearing. As a result, no one represented the claimant. Marlene Sartin, a representative with Barnett Associates, Inc., appeared on the employer's behalf with Patti Moore and Tiffany Rowe as witnesses for the employer. During the hearing, Employer Exhibits One through Three were offered and admitted as evidence. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on February 16, 2004. The claimant worked full-time as a salon manager. The employer's written policy informed employees the employer could discharge an employee if the employee intentionally falsified company records, tickets or P.O.S. entries. If an employee failed to follow closing procedures, including bank deposit procedures, the employer would discipline or discharge an employee. (Employer Exhibit Three).

On April 3, the employer learned the claimant gave free haircut coupons to customers without management's authorization. Instead of coding the free haircut correctly, the claimant told her

stylists to enter this service as a free waxing. By entering the free haircut as a free wax, the stylist who gave the free haircut received \$10.00 from the employer instead of nothing. The claimant and her stylists had given 95 free cuts as of April 3, 2007. (Employer Exhibit One). On April 9, 2007, the employer discharged the claimant for directing employees to code a free haircut as a free wax.

The claimant established a claim for benefits during the week of April 8, 2007. The claimant filed claims for the weeks ending April 14 through May 19, 2007. The claimant received a total of \$1,490.00 in benefits for these weeks.

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. 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).

Based on the evidence presented during the hearing, the employer established that the claimant intentionally and substantially disregarded the employer's interests when she told her stylist to code free haircuts as a free waxing. As a result, the employer paid the claimant and stylists \$950.00 for free haircuts the employer had not authorized. The claimant's actions amount to an intentional and substantial disregard of the employer's interests. The employer discharged the claimant for reasons constituting work-connected misconduct. As of April 8, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending April 14 through May 19, 2007. The claimant has been overpaid \$1,490.00 in benefits she received for these weeks.

DECISION:

The representative's April 25, 2007 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 April 8, 2007. 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 claimant is not legally entitled to receive benefits for the weeks ending April 14 through May 19, 2007. The claimant has been overpaid and must repay a total of \$1,490.00 in benefits she received for these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css