

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TONYA MATTOX

Claimant

CASEY'S MARKETING COMPANY

Employer

APPEAL 21A-UI-08327-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC:01/24/21

Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct

Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 15, 2021, reference 01 unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on June 7, 2021. The claimant, Tanya Mattox participated personally with witness Laura Goss. The employer, Casey's Marketing Company participated through its District Supervisor Tammy Crandall.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a store manager. Her employment started in October 2014, and ended January 27, 2021. On January 26, 2021, District Supervisor Crandall received notice that she should check the time keeping in claimant's store. Ms. Crandall reviewed the video and time keeping system records for January 8, 2021, where she saw claimant leave the store at 1:26 p.m., while still clocked in on duty. She then saw another store employee clock claimant out at 5:16 p.m. Ms. Crandall did not check on any other dates or times. On January 27, 2021, Ms. Crandall terminated the employment of claimant for violating the policy regarding accurate time keeping. Claimant was in fact at home working on preparing the schedule for her store. Working from home on such matters and allowing others to clock you out was a frequent behavior across multiple stores. Claimant's previous District Supervisor had been aware of it.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment but not for job-related misconduct. Benefits are allowed.

As a preliminary matter, the administrative law judge finds that the claimant did not quit. Claimant was discharged from employment.

Iowa Code § 96.5(2)a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand 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 to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

Unemployment statutes should be interpreted liberally to achieve the legislative goal of minimizing the burden of involuntary unemployment." *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6, 10 (Iowa 1982). The employer has the burden of proof in establishing disqualifying job misconduct. *Id.* at 11. The issue is not whether the employer made a correct decision in

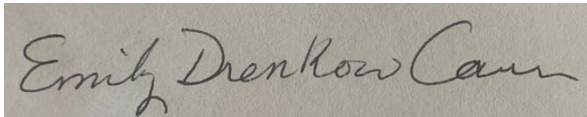
separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). What constitutes misconduct justifying termination of an employee and what misconduct warrants denial of unemployment insurance benefits are two separate decisions. *Pierce v. Iowa Dep't of Job Serv.*, 425 N.W.2d 679 (Iowa Ct. App. 1988).

The employer has the burden to prove that the alleged conduct is substantial or that it is willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees. Claimant does not deny leaving the premises on the clock, or that she gave her time keeping login to another employee to log her out. She testified credibly that she was working on her store schedule, She also testified credibly, as did Ms. Goss, that this was commonly done among the other stores, and that her previous District Supervisor was aware of it. The employer has the burden of proof in establishing disqualifying job misconduct, and has failed to meet its burden in this case. A single instance which appears to be common practice, albeit one that violates the written policy, is not substantial enough to warrant denial of benefits.

The employer has failed to meet its burden of proof of establishing that the claimant was discharged for job-related misconduct which would disqualify her from receiving benefits. Benefits are approved.

DECISION:

The March 15, 2021, reference 01 unemployment insurance decision is reversed. Claimant was discharged from employment but not for disqualifying misconduct. Benefits are approved.

A handwritten signature in dark ink on a light-colored rectangular background. The signature is cursive and reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

June 23, 2021
Decision Dated and Mailed

ed/scn