

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN E HIGH
Claimant

APPEAL NO. 09A-UI-16302-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOODWILL INDUSTRIES
Employer

OC: 01/11/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant, Stephen High, filed an appeal from a decision dated October 20, 2009, reference 05. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on December 7, 2009. The claimant participated on his own behalf. The employer, Goodwill Industries, participated by Kim Theis and was represented by Xchanging/Cambridge in the person of Heather Cichon.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Stephen High was employed by Goodwill from March 13, 2009 until October 1, 2009 as a full-time production clerk and driver. At the time of hire he received an orientation regarding company policies and was given an employee handbook. There is another copy of the company policies kept in the store. The store policies place restrictions on purchases which can be made by employees. An employee is strictly prohibited from buying any item from the store on any day during which the employee worked at that store. An employee may not have someone else purchase items for them from the store on the day on which they worked in the store.

On September 23, 2009, the claimant worked and during his shift he made comments about how much he liked a particular picture which the store had for sale. After his shift he came in with a friend who purchased the picture. Store Manager Kim Theis was notified of this purchase the next day but the claimant was off due to having surgery from that day until he returned to work on October 1, 2009. When he returned Ms. Theis questioned him about it and he admitted he had the friend buy the picture for him. Under company policy he was immediately discharged.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 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.

The claimant was advised of the company policies regarding purchases of store items by employees. Mr. High violated the policy by having a friend buy an item in the store where he had worked that same day. This is a violation of a known company rule and is conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of October 20, 2009, reference 05, is affirmed. Stephen High is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs