

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BONNIE R HALL**  
Claimant

**APPEAL NO. 08A-UI-02566-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAMILY DOLLAR STORES OF  
IOWA INC**  
Employer

**OC: 02/10/08 R: 04  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge  
Section 96.3(7) – Overpayment

**STATEMENT OF THE CASE:**

The employer, Family Dollar, filed an appeal from a decision dated March 7, 2008, reference 01. The decision allowed benefits to the claimant, Bonnie Hall. After due notice was issued a hearing was held by telephone conference call on March 31, 2008. The claimant participated on her own behalf. The employer participated by District Manager Lorrie Park, Training Manager Debbie Thompson and Assistant Manager Sonya Bryant. Exhibits One and Two were admitted into the record.

**ISSUE:**

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

**FINDINGS OF FACT:**

Bonnie Hall was employed by Family Dollar from November 1, 2004 until February 14, 2008, as the store manager in Fort Madison. On October 30, 2007, she was issued a written warning regarding various policy violations ranging from time clock abuses to allowing other employees to ring transactions on the manager's number and drawer. Ms. Hall signed she had received the warning. It further notified her that any other policy violations could lead to disciplinary action up to and including discharge.

On January 21, 2008, the store was robbed around 6:00 p.m. while Ms. Hall was in the store alone. The period from 4:00 p.m. until 8:00 p.m. is known as "closing" and no one is to be in the store alone during closing. Another person had been scheduled to work that night but had not come in. In an emergency a single person may close but only after notification to a district manager. The claimant was verbally counseled about this by District Manager Lorrie Park on January 22, 2008.

On February 12, 2008, around 3:45 p.m. Assistant Manager Sonya Bryant discovered in the office safe the bank deposit bag containing the receipts from the day before. Company policy is

to have the day's receipts deposited in the bank no later than 1:00 p.m. the following day. Ms. Bryant notified Training Manager Debbie Thompson who notified Ms. Park. The bank deposit was made around 4:00 p.m.

Ms. Park consulted with her supervisors, the regional vice president and the loss prevention manager. After reviewing the claimant's disciplinary history the decision was made to discharge her and the district manager notified her in person on February 14, 2008.

Bonnie Hall has received unemployment benefits since filing a claim with an effective date of February 10, 2008.

### **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 had been advised her job was in jeopardy as a result of her failure to follow established company policies. In spite of the warning the claimant continued to violate company policy to the detriment of the employer's interest. By working alone on January 21, 2008, she may have contributed to the robbery. By failing to properly deposit the previous day's receipts, she kept more money in the store, providing a possibility of greater revenue loss in the event of another robbery, and not having the revenue posted to the employer's account in a timely manner. This is conduct not in the best interests of the employer and the claimant is disqualified.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

**DECISION:**

The representative's decision of March 7, 2008, reference 01, is reversed. Bonnie Hall is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$1,388.00.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs