

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORAZON T BATAK**

Claimant

**APPEAL NO. 06A-UI-09356-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**

Employer

**OC: 08/20/06 R: 03  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Corazon Batak filed an appeal from a representative's decision dated September 15, 2006, reference 01, which denied benefits based on her separation from The University of Iowa (UI). After due notice was issued, a hearing was held by telephone on October 3, 2006. Ms. Batak participated personally and offered additional testimony from Jeff Strottmann. Exhibit A was admitted on Ms. Batak's behalf. The employer participated by Dave Bergeon, Human Resources Specialist, and by Becky Iliff and Ellen Hergert, Associate Directors of Food and Nutrition. Exhibit One was admitted on the employer's behalf.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Batak was employed by UI from September 28, 1994 until August 18, 2006. She was last employed full time as a cashier. She was discharged for providing free food items to a coworker and for receiving free food items from this same coworker.

The employer has a surveillance camera over the cash register. During the period from July 5, through August 7, Ms. Batak either failed to charge her coworker or failed to make payment for her own items on at least 11 occasions. On July 14, Ms. Batak failed to pay for a \$.72 purchase and, on August 2, failed to pay for a \$1.70 purchase. On the remaining 9 occasions, Ms. Batak failed to take payment from her coworker. On two of those occasions, Ms. Batak allowed the coworker's boyfriend to also have food at no cost. Ms. Batak did not have the authority to allow anyone to have food at no charge. She allowed her coworker to have food at no cost because the coworker was going through a difficult time due to a custody battle. This coworker was the only individual from whom Ms. Batak failed to receive payment.

Ms. Batac lost her mother in June of 2006 and was devastated by the loss. On one occasion after the death, she left her car running during her entire shift. On another occasion, she left the moneybag in a drawer. There were no other failures in her performance after the death. She did not have medical care until after her separation from employment.

#### **REASONING AND CONCLUSIONS OF LAW:**

Ms. Batac was discharged from her employment. 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. Batac was discharged for theft. She deliberately allowed a coworker to remove food items without making proper payment and also, herself, removed food items without making the required payment. These were not occasions on which Ms. Batac simply forgot to receive payment from her coworker. She made a conscious decision not to charge her for items.

Ms. Batac attributes her actions to the grief she was experiencing after her mother's death. The administrative law judge is not persuaded that her conduct was caused by grief. Other than the incidents in which she left her car running and left the money bag in the drawer, there were no other problems with her job performance during the period following her mother's death in June. Moreover, Ms. Batac was not only allowing her coworker to remove food without making payment, she was allowing the coworker's boyfriend to have free food. A sense of guilt for charging the coworker because of the coworker's circumstances would not explain why the boyfriend was allowed free food. Furthermore, Ms. Batac, herself, was allowed by this same coworker to remove food items without making payment. The fact that the two were not charging each other appears to be more a product of a joint plan than grief.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that the employer has satisfied its burden of proving misconduct. Ms. Batac failed to establish that her conduct was the result of inability or incapacity. Her deliberate and intentional failure to receive or make payment on the occasions identified herein constituted a substantial disregard of the standards the employer had the right to expect. For the reasons stated herein, benefits are denied.

#### **DECISION:**

The representative's decision dated September 15, 2006, reference 01, is hereby affirmed. Ms. Batac was discharged by UI for misconduct in connection with her employment. Benefits

are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/pjs