

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**REVA E HOMMER**  
Claimant

**APPEAL NO. 18A-UI-01989-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLGENCORP LLC**  
Employer

**OC: 01/14/18**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct  
Section 96.3-7 – Overpayment

**STATEMENT OF THE CASE:**

Dolgencorp (employer) appealed a representative's February 1, 2018, decision (reference 01) that concluded Reva Hommer (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 9, 2018. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Jesse Kelsay, District Manager. Exhibit D-1 was received into evidence.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 7, 2017, as a part-time lead sales associate. She signed an online receipt for the employer's handbook on April 25, 2017. She did not receive a copy of the handbook. The handbook has sections on Protection of Company Assets and Deposits. It is unknown whether the claimant received training in those areas. The employer did not issue the claimant any warnings during her employment.

Her supervisor regularly told her to take deposit bags to the bank or record she had taken bags to the bank that she had not seen. The supervisor told her the bags were already at the bank. The claimant always followed his instructions.

On or about December 30, 2017, a co-worker was supposed to place three deposit bags into the store's safe under the register. On December 31, 2017, the claimant removed the only two deposit bags in the safe and took them to the bank. The claimant assumed that one of the three bags had already been deposited. She recorded that she deposited three bags. The bank recorded a deposit of two bags. Neither the supervisor nor the district manager noted the discrepancy or questioned her.

At some point, the district manager became aware that a deposit bag was missing. Employees searched the store and found the missing bag under a desk in the office. No money was missing. The deposit of the missing bag was made on January 11, 2018. On January 14, 2018, the employer terminated the claimant for not protecting company assets and falsifying records. The supervisor was also terminated in connection with the incident. The district manager no longer works for the company.

The claimant filed for unemployment insurance benefits with an effective date of January 14, 2018. The employer provided the name and number of Greg Johner as the person who would participate in the fact-finding interview on January 31, 2018. Mr. Johner, the employer's representative, participated in the fact finding interview but had no first-hand information regarding the claimant's separation from employment. An employee with firsthand information was not provided for rebuttal.

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

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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).

The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). In this case, a number of employees made mistakes with cash handling but we must only focus on the claimant's actions. She opened the safe and saw two deposit bags where there were supposed to be three. She took them to the bank and deposited them. The claimant wrote that she had deposited three bags when she had only deposited two. Without training and with prior instructions to the contrary, it would be understandable if the claimant was confused about how to handle a situation such as this. The employer did not provide sufficient evidence of willful and deliberate job-related misconduct. The employer did not meet its burden of proof to show misconduct. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's February 1, 2018, decision (reference 01) is affirmed. The employer has not met its burden of proof to establish job related misconduct. Benefits are allowed, provided claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs