

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KOREY J AVERY
Claimant

APPEAL NO. 13A-UI-02760-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AUTOZONERS LLC
Employer

OC: 01/13/13
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 28, 2013, reference 02, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 8, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Larry Zimmerman participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked full-time as a parts sales manager for the employer from February 5, 2008, to January 18, 2012.

The employer discharged the claimant on January 18, 2012, for allowing return merchandise to be placed outside the back door unattended to be picked up by the AutoZone Truck. The merchandise ended up being stolen.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial misconduct has been proven in this case. The employer has only shown an isolated instance of negligence.

DECISION:

The unemployment insurance decision dated February 28, 2013, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/tll