

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CONNIE S SADDORIS
Claimant

APPEAL NO. 11A-UI-05734-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK SHOP INC
Employer

**OC: 03/27/11
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Kwik Shop, Inc. filed an appeal from a representative's decision dated April 20, 2011, reference 01, which held that no disqualification would be imposed regarding Connie Saddoris' separation from employment. After due notice was issued, a hearing was held by telephone on May 24, 2011. Ms. Saddoris participated personally. The employer participated by Connie McMorrان, Manager. Exhibits One through Six were admitted on the employer's behalf.

ISSUE:

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

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Saddoris was employed by Kwik Shop, Inc. from June 1, 2010 until March 29, 2011 as a full-time clerk. She was discharged for what the employer felt was poor customer service. The employer has arranged to have a "secret shopper" go to the store three times each month to make sure employees are following procedures and maintaining the store in an acceptable manner.

On March 27, 2011, a "secret shopper" visited Ms. Saddoris' store while she was on duty. She had points deducted from her overall score because she failed to suggest add-on items or mention specials. The shopper indicated that Ms. Saddoris did not smile or appear friendly. She also indicated that she snapped at her when she questioned the price she rung up for two beverages. She indicated that Ms. Saddoris failed to offer any closing or a thank-you. As a result of this review, Ms. Saddoris was discharged on March 29. She had successfully passed other "secret shopper" reviews in the past. The above matter was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code § 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. Saddoris was discharged for poor customer service. This conclusion was based solely on the results from the “secret shopper” visit on March 27. She acknowledged that she failed to suggest add-ons or to mention specials. She also acknowledged that she did not offer the loyalty card. She denied that she snapped at the shopper or that she failed to say “thank-you.”

The employer’s evidence established, at most, that Ms. Saddoris was an unsatisfactory employee on March 27. Her deviation from the employer’s standards was not such as would constitute a deliberate and intentional disregard of the employer’s standards. Because she had successfully passed other “secret shopper” visits, it cannot be concluded that she had a pattern and practice of providing poor customer service. It was within the employer’s prerogative to discharge Ms. Saddoris. However, conduct that might warrant a discharge will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative’s decision dated April 20, 2011, reference 01, is hereby affirmed. Ms. Saddoris was discharged but misconduct has not been established. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs