

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANGELA F GOODIN**  
Claimant

**APPEAL NO. 08A-UI-05328-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAMILY DOLLAR STORES OF IOWA INC**  
Employer

**OC: 05/04/08 R: 01  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated May 30, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on June 17, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Zeb Boomgarden participated in the hearing on behalf of the employer. Exhibits One through Five were admitted into evidence at the hearing.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as a store manager from February 21, 2005, to May 6, 2008. The claimant was informed and understood that under the employer's work rules, she needed to have two employees scheduled to work from 1:00 p.m. to closing and bank deposits were to be made at least once per day. The claimant was warned about failing to make daily bank deposits on August 1, 2007, and about failing to have two employees scheduled to work on April 30, 2008.

The claimant was scheduled off work on May 3 and 4 and was out of town. She had an assistant manager and a cashier scheduled to work each day, but the cashier was absent from work. The claimant was unaware of this.

On May 5 and 6, the claimant was sick and unable to work. On the morning of May 5, she contacted the assistant managers to go in and open the stores and the district manager, Zeb Boomgarden, to inform him about her illness. The claimant was excused from working on May 5 and 6 by her doctor.

Boomgarden believed that the claimant scheduled only one employee to work on May 3 and 4. He discovered instances on April 7, April 20, April 27, and May 4 when no daily bank deposit was made. The assistant managers were responsible for making the bank deposits on April 20,

April 27, and May 4, as the claimant was not scheduled to work these days. The claimant had warned her employees about the necessity of making daily bank deposits.

When the claimant called Boomgarden on May 6 to inform him that she was feeling better and would be reporting to work the next day, Boomgarden discharged her due to the issues involving scheduling and failing to make daily bank deposits.

### **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.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No willful and substantial misconduct has been proven in this case. The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. I believe that the claimant had two employees scheduled on May 3 and 4. She was not the person responsible for the most recent instances of bank deposits not being made daily, and if she was responsible for the bank deposit on April 7, it would not be a current act of misconduct as required by 871 IAC 24.32(8).

**DECISION:**

The unemployment insurance decision dated May 30, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw