

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CORAL M THORSEN**

Claimant

**APPEAL NO. 07A-UI-10259-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TARGET CORPORATION**

Employer

**OC: 10/07/07 R: 04  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Target Corporation (employer) appealed a representative's October 26, 2007 decision (reference 01) that concluded Coral M. Thorsen (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 26, 2007. The claimant participated in the hearing. Dan Sanudo, the executive team leader of the assets protection department, appeared on the employer's behalf. Leanne O'Clair and Stephanie Collier were present and available to testify. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on November 1, 2002. The claimant worked primarily in the fitting room, but sometimes counted money in the cash office. The claimant understood the employer would discharge an employee if an employee stole from the employer.

In April 2007, the employer noticed there were cash shortages. When the cash shortage did not stop, the employer's asset protection department investigated the source of the shortage. After reviewing numerous reports and reviewing live surveillance, the employer discovered that when the claimant counted cash, she entered a lesser amount of money into the employer's computer system and pocketed the difference. As a result, reports the claimant generated balanced, but the front registers were short. The employer discovered the source of the cash shortage in late September.

On October 7, the employer talked to the claimant about the cash shortage and that she had been seen pocketing money. The claimant denied doing this. Even though the claimant's job was not in jeopardy prior to this discovery, the employer discharged the claimant on October 7 for stealing money from the employer.

The employer reported the problem and the results of their investigation to the local police. The police report indicated the claimant admitted on October 9 to a police officer that she had taken some of the employer's money because of financial problems. The claimant went to court and obtained a public defender because she was initially charged with second degree theft. As of the date of this hearing, the claimant has not gone back to court.

The claimant established a claim for unemployment insurance benefits during the week of October 7, 2007. She filed claims for the weeks ending October 20 through November 17, 2007. The claimant received a total of \$890.00 in benefits for these weeks.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

A preponderance of the evidence establishes that the claimant was responsible for cash shortages the employer experienced by entering into the employer's computer system an amount that was less than the actual cash the employer received. The claimant then took the difference so that the cash office books balanced, but the front registers appeared to be short. The claimant understood the employer would discharge an employee if the employee took money from the employer. The claimant's actions amount to an intentional and substantial disregard of the standard of behavior the employer has as right to expect from an employee. The claimant committed work-connected misconduct. As of October 7, 2007, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending October 20 through November 17, 2007. The claimant has been overpaid \$890.00 in benefits she received for these weeks.

### **DECISION:**

The representatives' October 26, 2007 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of October 7, 2007. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending October 20 through

November 17, 2007. The claimant has been overpaid and must repay a total of \$890.00 in benefits she received for these weeks.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw