

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES W BROUSARD
Claimant

APPEAL NO: 12A-UI-03694-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLLAR TREE STORES INC
Employer

OC: 02/19/12
Claimant: Respondent (1)

Iowa Code § 96.5(2) - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's March 29, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. The claimant participated in the hearing. Steve Rhodes, the district manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in June 2004. He worked full-time as a store manager. The claimant understood the employer's deposit policies. Prior to February 6, 2012, the claimant's job was not in jeopardy.

On February 6, the claimant properly recorded the amount of money he was going to take to the bank to deposit. Before he got to the bank, his sister called and asked the claimant to pick up her daughter from school. The claimant put the money bag underneath the seat of his car. He became distracted after he picked up his niece and forgot about the money in his car. He left the money in his car until February 17. On February 17, the claimant was reviewing the deposit log and realized a deposit was missing. He then remembered he had money in his car and went to the bank to deposit it. When the claimant went to the bank, Rhodes was there. Rhodes had started to investigate the missing money a few days earlier. The money that had not been deposited on February 6 totaled \$1,048.36.

When Rhoades reviewed the deposit logs, he noticed on February 13 the claimant had signed an assistant manager's name on the log sheet. When money is counted for a deposit, two people are supposed to be present to make sure money is counted correctly. On February 13, the claimant and his assistant manager were the only people working until a cashier came in at 5 p.m. They were both very busy and they did not have time for both of them to count the

money, so the claimant could make a deposit. The claimant counted the money while the assistant manager worked at the cash register. He planned to have the assistant manager initial her name, but forgot to tell her he had signed her name and did not ask her to initial the deposit log. The claimant made the deposit even though the employer's policy requires two people to be present when money is counted. The claimant did not think about waiting until the cashier came to work.

On February 17, 2012, the employer discharged the claimant because he violated the employer's deposit policy by failing to make a timely deposit, keeping money in his car unsecured for several days, and for falsifying a document by signed for an assistant manager without her knowledge.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. 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 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).

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).

The employer established justifiable business reasons for discharging the claimant. But, did the claimant intentionally disregard or violate the employer's policies? The claimant did not deposit the February 6 money as he planned to do. Should he have gone to the bank to deposit the money? Yes, but he did not. The facts do not indicate the claimant planned to keep this deposit. Instead, he forgot he had the deposit in his car until he reviewed the deposit log sheets on February 17. He then took the money to the bank to deposit. When he saw Rhodes at the bank, he knew he was in trouble.

On February 13, 2012, the claimant used poor judgment when he counted money for the deposit by himself. The assistant manager and the claimant were the only employees working. The assistant manager was busy helping customers when the claimant counted the money for the deposit. The claimant signed the assistant manager's name on the log sheet. While the claimant violated the employer's policy on February 13, this isolated incident does not rise to the level of work-connected misconduct. As of February 19, 2012, the claimant is qualified to receive benefits.

DECISION:

The representative's March 29, 2012 determination (reference 01) is affirmed. The employer discharge the claimant for justifiable business reasons when he violated the employer's policy. Even though the employer had good reasons for discharging the claimant, the claimant did not commit work-connected misconduct. As of February 19, 2012, the claimant is qualified to receive benefits, provided he meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw