

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SHANNON L HILL
707 E MCKINLEY AVE
DES MOINES IA 50315-4353

DILLARD DEPARTMENT STORES INC
ATTN MS BILLIE TREAT
1600 CANTRELL RD
LITTLE ROCK AR 72201-1110

Appeal Number: 06A-UI-02502-CT
OC: 01/22/06 R: 02
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 06.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Dillard Department Stores, Inc. (Dillard) filed an appeal from a representative's decision dated February 20, 2006, reference 03, which held that no disqualification would be imposed regarding Shannon Hill's separation from employment. After due notice was issued, a hearing was held by telephone on April 19, 2006. Mr. Hill participated personally. The employer participated by Doree Henderson, Assistant Store Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hill was employed by Dillard from August 9,

2005 until January 9, 2006 as a full-time sales associate. He was discharged after he allowed a coworker to use his employee discount.

On January 9, Jeremy, a coworker, asked to use Mr. Hill's discount card because he was having problems using his own card. Mr. Hill believed Jeremy was entitled to the same discount as he was and, therefore, allowed him to use the card. His conduct was considered a violation of the discount policy and, therefore, both Mr. Hill and Jeremy were discharged. The above matter was the sole reason for Mr. Hill's discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Hill was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 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). Mr. Hill was discharged after he allowed a coworker to use his employee discount. It was not unreasonable for him to assume that Jeremy, as an employee, received the same discount as he. At most, his actions constituted a good-faith error in judgment or discretion. Conduct so characterized is not considered disqualifying misconduct. See 871 IAC 24.32(1).

While the employer may have had good cause to discharge Mr. Hill, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). In order to impose a disqualification from job insurance benefits, the misconduct must be substantial. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). Inasmuch as the conduct that caused Mr. Hill's discharge did not rise to the level of deliberate and intentional misconduct, no disqualification is imposed.

DECISION:

The representative's decision dated February 20, 2006, reference 03, is hereby affirmed. Mr. Hill was discharged by Dillard but disqualifying misconduct has not been established. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/tjc