

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DENISE M ORR
Claimant

APPEAL NO. 09A-UI-07865-DW

**ADMINISTRATIVE LAW JUDGE
DECISION**

TARGET CORPORATION
Employer

**Original Claim: 04/19/09
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Denise M. Orr (claimant) appealed a representative's May 19, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Target Corporation (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, an in-person hearing was held on July 15 in Cedar Rapids. The claimant participated in the hearing. Rebecca Starr, a human resource representative, appeared on the employer's behalf. 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.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer in November 1991. The claimant worked as a part-time sales floor associate. The employer's policy informs employees they cannot hold an item by taking it off the sales floor to purchase at a later time.

Under a previous management team, the claimant understood employees could hold a sales item to purchase later. The claimant understood that when the new management team began, they enforced the employer's rules and no longer allowed employee to hold an item to purchase later.

On February 24, 2009, the claimant put a discounted coffee maker behind the counter so she could buy it later when she went on break. The claimant's supervisor, Elisa Gould, discovered the coffee pot and told the claimant she could not hold any item to purchase later. The employer's policy indicated the item had to remain on the sales floor until employees could purchase the item when they were off the clock. Gould had this discussion with the claimant on the floor and considered her discussion as a verbal warning. Gould took the coffee pot and put it back on the floor.

On April 3, the employer discovered the claimant put a discounted necklace in a drawer to purchase later. The claimant admitted she had placed the necklace in the drawer. The employer only had one necklace and the claimant wanted to buy it for her niece. The employer again told the claimant she could not hold back discounted items from customers so she could purchase it later.

This incident was reported to management. Management made the decision to discharge the claimant. The employer informed the claimant she was discharged on April 18, 2009, because she violated the employer's purchasing policy for employees.

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).

Although the employer only talked to the claimant on the floor and did not tell her the discussion was considered a verbal warning, the claimant knew or should have known the employer did not allow employees to take discounted merchandise off the floor to purchase later. On April 3 the claimant intentionally took one discounted necklace off the floor and put it in a drawer so she could purchase it later. The claimant intentionally violated the employer's policy. The evidence indicates the claimant understood the employer's policy did not allow her to do this, but she did so anyway. Based on the facts in this case, the claimant intentionally and substantially disregarded the employer's interests by violating the employer's purchasing policy. The claimant committed work-connected misconduct on April 3, 2009. As of April 19, 2009, the claimant is not qualified to receive benefits.

DECISION:

The representative's May 19, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for committing work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 19, 2009. 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 is not subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw