

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: Ms. Kuhn was employed by Murphy from February 14 until August 21, 2005 as a full-time manager. On August 21, an employee of the store notified the district manager that the nozzle on a gas pump was malfunctioning. The individual indicated that Ms. Kuhn had been made aware of the problem on several occasions during the week. The district manager contacted Ms. Kuhn and directed her to get the pump fixed immediately. Ms. Kuhn called the maintenance person and then called the store to advise as to what steps had been taken. Shortly thereafter, she was contacted by the district manager and told to turn in her keys.

Ms. Kuhn was aware that there was a problem with one of the gas pumps not clicking off properly. She did not feel the problem was due to any malfunction with the pump but with the customers. Therefore, she had not taken any steps to correct the problem. She had not been warned that she was in danger of losing her job for any reason.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Kuhn was separated from employment for any disqualifying reason. The parties disagree as to whether the separation was a quit or a discharge. After hearing the evidence, the administrative law judge concludes that the separation was initiated by the employer when Ms. Kuhn was told to turn in her keys. 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). It appears that Ms. Kuhn's discharge was caused by the fact that she had not taken steps to fix the gas pump in spite of being aware that there was a problem. At most, her failure constituted a good-faith error in judgment in attributing the problem to customer error rather than a malfunction with the pump. Isolated instances of poor judgment do not constitute disqualifying misconduct.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that disqualifying misconduct has not been established. Accordingly, benefits are allowed.

DECISION:

The representative's decision dated September 9, 2005, reference 01, is hereby affirmed. Ms. Kuhn was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kjw