

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JULIE A STEVENS**  
Claimant

**APPEAL NO. 15A-UI-12453-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KUM & GO LC**  
Employer

**OC: 10/18/15**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Julie Stevens (claimant) appealed a representative's November 5, 2015 (reference 01) decision that concluded she was not eligible to receive unemployment insurance benefits after her separation from employment with Kum & Go (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 30, 2015. The claimant participated personally. The employer participated by Matt McCormick, District Supervisor.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 6, 2003 as a full-time general manager. The employer's handbook is on line and the claimant saw it when she was hired. Each month a general manager had the chance to win a \$100 gift card with a sales promotion. The claimant did not receive any warnings during her employment. Near the end of her employment the employer transferred the claimant to the employer's smallest store. She attended the end of a meeting where the employer stated it would be giving something back to customers.

In October 2015, the employer sent the claimant's store a sign kit with specific instructions on page four. The instructions said a single coupon should be hidden each day of the month for a customer to find. A map of a store was provided for purposes of hiding the coupon. The claimant did not think the map applied to her because her store was so small. The instructions said the one dollar off coupon could only be used by one customer once per day. The claimant did not read page four. The claimant told employees the coupon was part of the company's plan to give back something to the customer. The claimant placed the coupon at the register for all customers to use. Customers could use the coupon to purchase things, including the October 2015 sales promotion item.

On October 12, 2015, the employer discovered the coupon had been used 1,160 times. On October 14, 2015, the district supervisor went to the store to investigate. The claimant had scanned the coupon for redemption for customers 237 times. The employer investigated and on October 16, 2015 terminated the claimant.

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

For the reasons that follow the administrative law judge concludes the claimant was not discharged for misconduct.

Iowa Code § 96.5-2-a provides:

An individual shall be disqualified for benefits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The individual shall be disqualified for benefits until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Dep't of Job Serv., 275 N.W.2d 445, 448 (Iowa 1979).

Repeated failure to follow an employer's instructions in the performance of duties is misconduct. Gilliam v. Atlantic Bottling Company, 453 N.W.2d 230 (Iowa App. 1990). An employer has a right to expect employees to follow instructions in the performance of the job. The claimant disregarded the employer's right by repeatedly failing to follow the employer's instructions. The claimant failed to secure the assets of the employer when she did not read the instructions. She gave her employees incorrect instructions and did not ask the employer for guidance when the map did not fit her store's floorplan. The claimant's actions cost the employer more than \$1,100. The claimant's disregard of the employer's interests is misconduct. As such the claimant is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's November 5, 2015 (reference 01) decision is affirmed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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