

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GAYLIN R DURYEE
Claimant

APPEAL NO: 09A-UI-08828-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JASPER COUNTY
Employer

OC: 05/10/09
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Gaylin R. Duryee (claimant) appealed a representative's June 15, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the account of Jasper County (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, a telephone hearing was held on July 7, 2009. The claimant participated in the hearing. Dennis Simon, the human resource director, Doug McClune, the claimant's supervisor, and Brady Lewis, an investigator, 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 on October 6, 1993. She worked as a full-time maintenance technician. In November 2004, the employer entered into an agreement with a correctional facility to use inmates in a work release program. The inmates worked in the employer's maintenance department. The claimant and all maintenance employees received training as to what inmates could and could not do and what employees could and could not do. As rules changes, the claimant and other employees received more training.

After smoking was prohibited at the correctional facility, the claimant understood inmates could not smoke while working under the work release program, employees could not purchase tobacco products for inmates to take back to the correctional facility and employees could not take an inmate's money to purchase anything on the inmate's behalf.

For the last several months the claimant purchased at least one pack of cigarettes and chew for an inmate that worked with her under the work release program. The inmate gave her money and she purchased the tobacco products. The claimant knew she was not allowed to do this and that her job was in jeopardy if anyone discovered she was doing this. The claimant

concluded the inmate had other sources that also provided him with tobacco products but she did not say anything to McClune.

Prior to April 16, 2009, the inmate gave the claimant \$60.00 to buy him a money order. On April 16, the correctional facility would not allow the inmate to work for the employer because tobacco had been discovered in the correctional facility. When the inmate did not return to work under the work release program, the claimant used the \$60.00 for her own personal use.

After the employer learned the correctional facility would be investigating how the inmate got tobacco into the facility, the employer decided to wait until this investigation had been completed before taking any action. On May 5, the employer received information that that claimant and another maintenance employee had purchased tobacco products for the inmate when he worked for the employer under the work release program. The employer also learned the claimant had received money from the inmate to buy him a money order. The employer immediately placed the claimant on administrative leave.

When the employer talked to the claimant, she acknowledged she knew she was violating the rules when she bought tobacco products for the inmate and took money to buy a money order for him. The claimant also acknowledged she understood her actions jeopardized her job if she were caught. On May 12, 2009, the employer discharged the claimant for violating the employer's rules.

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 section 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).

The evidence shows the claimant intentionally violated the employer's rules when she made several tobacco purchases for an inmate on a work release program. The claimant had no explanation as to why she bought tobacco products for the inmate when she knew she was violating the employer's rules and was putting her job in jeopardy. Based on the facts in this case, the claimant committed work-connected misconduct. Therefore, as of May 10, 2009, the claimant is not qualified to receive benefits.

DECISION:

The representative's June 15, 2009 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of May 10, 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 will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs