

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

WILLIAM A RAVENSCRAFT
3919 CHISHOLM
DAVENPORT IA 52804

HY-VEE INC
c/o TALX UCM SERVICES INC
PO BOX 283
ST LOUIS MO 63166-0283

TALX UC EXPRESS
3799 VILLAGE RUN DR #511
DES MOINES IA 50317

Appeal Number: 06A-UI-00497-DWT
OC: 12/11/05 R: 04
Claimant: Respondent (2)

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 96.5-2-a - Discharge
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Hy-Vee, Inc. (employer) appealed a representative's January 5, 2006 decision (reference 01) that concluded William A. Ravenscraft (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 1, 2006. The claimant participated in the hearing. David Williams, a representative with TALX, appeared on the employer's behalf with witnesses, Rod Burns and Sarah Lloyd. 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.

ISSUES:

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

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on August 19, 2002. The claimant worked as a night stocker. Tammy Staub was the claimant's supervisor.

On December 2, when the relief cashier, A, worked the cash register, the claimant purchased a carton of USA cigarettes and used four Newport cigarette coupons. The coupons indicate they must be used for Newport cigarettes and only one coupon per transaction could be used. The cashier accepted the four coupons, which significantly reduced the amount of money the claimant had to pay for the carton of cigarettes.

When Burns talked to A. later in the day, she admitted she knew she was not allowed to accept the four coupons but did so because the claimant was a friend. At least two employees working that shift informed Burns the claimant had asked them about taking coupons for another brand of cigarettes and told the claimant they could not do this. When Burns spoke to the claimant, the claimant did not tell Burns he had done the same thing for two years at the employer's store and no one told him he could not do what he had done on December 2, 2005. The employer discharged the claimant on December 2 for theft or for committing coupon fraud.

The claimant established a claim for unemployment insurance benefits during the week of December 11, 2005. The claimant filed claims for the weeks ending December 17, 2005, through January 28, 2006. The claimant received his maximum weekly benefit amount of \$180.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him 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).

The claimant knew the four coupons he had were for Newport cigarettes and bought USA brand cigarettes. The claimant also knew the coupons indicated only one coupon could be used for each transaction. Even though the claimant asserted he has done the same thing a number of times before and no one ever said anything to him, it is difficult to understand why the claimant did not tell Burns this on December 2, 2005. This in addition to the fact the employer received information that other cashiers told the claimant they would not allow him to use the coupons for cigarettes other than Newports, establishes by a preponderance of the

evidence that the claimant intentionally and substantially disregarded the standard of behavior the employer has a right to expect from an employee. The employer discharged the claimant for work-connected misconduct. As of December 11, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending December 17, 2005 through January 28, 2006. The claimant has been overpaid \$1,260.00 in benefits he received for these weeks.

DECISION:

The representatives' January 5, 2006 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of December 11, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending December 17, 2005, through January 28, 2006. The claimant has been overpaid and must repay a total of \$1,260.00 in benefits he received for these weeks.

dlw/pjs