

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LARRY VINE**  
Claimant

**APPEAL NO: 15A-UI-09994-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DOLGENCORP LLC**  
Employer

**OC: 08/09/15**  
**Claimant: Respondent (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the August 25, 2015, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 21, 2015. The claimant participated in the hearing. Mike Bushaw, District Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time store manager for Dolgencorp from March 26, 2005 to August 6, 2015. He was discharged after he authorized a check presented by a manager in training July 10, 2015, and unknowingly took a bad check from the same customer himself July 11, 2015.

The employer uses a check authorization machine that is part of the cash registers and although the stores rarely receive personal checks the cashier must verify the customer has sufficient funds in their checking account at the time they present a check to the employer's cashier. If the check machine is not working properly, the cashier is expected to manually enter that information. However, either way the cashier must still run the check through the check cashing machine. The check cashing machine had been giving the cashiering staff problems because when cashiers had to physically slide the check through the machine it would often "eat" the checks.

On July 11, 2015, when the claimant took the check with insufficient funds from the customer he indicated he was by himself and was servicing a long line of customers. He was concerned about running the customer's check through the machine and made a management decision not to do so because of the long line at his register and the fact if the machine ate the check, as had been happening, he would have been required to dig the check out of the machine and restart

his register, a process that takes between 10 and 15 minutes. The claimant had reported the problem to the employer on several previous occasions but they did not respond to his repeated reports because the printing portion of the machine still worked and in the claimant's opinion the employer would not replace or repair any equipment unless it was completely broken.

After investigating the issue, the employer notified the claimant his employment was terminated August 6, 2015. The claimant had not received any previous verbal or written warnings for any prior infractions of any kind.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment for no disqualifying reason.

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).

The employer has the burden of proving disqualifying misconduct. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of

unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

While the claimant approved one bad check and unknowingly took another bad check from the same customer the following day, there was a problem with the check authorization machine as it was destroying the checks. The fact that the machine was not working led to the claimant's managerial decision to accept that check without running it through the machine as he was alone in the store with a long line of customers and if the machine destroyed the check he would have to restart his computer, which would have taken approximately 15 minutes. He had previously complained about the check verification machine to no avail. The associate the day before faced a similar problem. Even if the claimant took the check information manually, he would still have needed to run the check through the machine, which did not alleviate the problem.

The claimant made a managerial decision to take the check without risking having to shut down his register when he was alone in the store with a long line of customers. Although the employer now disagrees with the claimant's decision, it placed him in the position of making those types of decisions on occasion when it elevated him to the position of store manager. The fact that the claimant apparently made a poor decision, when he has never been warned either verbally or in writing about anything during his 10-year tenure with the employer, demonstrates that this was an isolated incident of misconduct and as such does not rise to the level of disqualifying job misconduct.

**DECISION:**

The August 25, 2015, reference 01, decision is affirmed. The claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/pjs