

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIXIE MORTON
Claimant

THOMBERT INC
Employer

APPEAL NO. 14A-UI-11371-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/05/14
Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

STATEMENT OF THE CASE:

Dixie Morton (claimant) appealed an unemployment insurance decision dated October 24, 2014, (reference 01), which held that she was not eligible for unemployment insurance benefits because she was discharged from Thombert, Inc. (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2014. The claimant participated in the hearing. The employer participated through Andrew Davis, Production Supervisor.

ISSUE:

The issue is whether the claimant was discharged for misconduct sufficient to warrant a denial of unemployment benefits.

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 full-time on August 8, 2000, and was most recently working as a molder when she was discharged on October 7, 2014, for theft. On September 27, 2014, co-workers saw her going through the janitor's closet where the paint is kept, they saw a box upside down by the door with a can of paint and a can of acetone underneath it, they saw her putting the cans in a box, they saw her put the box in her car, and they saw the box sitting in the front seat of her car upside down.

The claimant denied theft but admitted she was in the janitor's closet, admitted she took a box from the employer's facility out to her car, admitted she put the box in her car, and admitted she had paint in her car but contends it was her boyfriend's paint.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. It is the employer's burden to prove the discharged employee is disqualified for benefits for misconduct. *Sallis v. Employment Appeal Bd.*, 437 N.W.2d 895, 896 (Iowa 1989).

Misconduct that disqualifies an individual from receiving unemployment insurance benefits occurs when there are deliberate acts or omissions that constitute a material breach of the worker's duties and obligations to the employer. See 871 IAC 24.32(1). The claimant was discharged on October 7, 2014, for theft. Although she denies taking the paint, the preponderance of the evidence confirms she did. When a claimant intentionally disregards the standards of behavior that the employer has a right to expect of its employees, the claimant's actions are misconduct. The claimant was discharged for misconduct and benefits are denied.

DECISION:

The unemployment insurance decision dated October 24, 2014, (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs