

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JULIE A BRENT
Claimant

APPEAL NO. 06A-UI-10398-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARDEE'S FOOD SYSTEMS INC
Employer

**OC: 09/17/06 R: 04
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Hardee's Food Systems, Inc. filed an appeal from a representative's decision dated October 11, 2006, reference 01, which held that no disqualification would be imposed regarding Julie Brent's separation from employment. After due notice was issued, a hearing was held by telephone on November 8, 2006. Ms. Brent participated personally and offered additional testimony from Jane Eslami. The employer participated by Melody Stepp, District Manager, and Kim Lucker, Human Resources Manager. Exhibits One through Ten were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Brent was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Brent began working for Hardee's on June 5, 2001 and last worked on September 20, 2006. She was last employed full time as general manager, a position she had held since approximately March of 2004. She was discharged for not following cash handling procedures. On or about September 20, the employer conducted an audit which revealed that Ms. Brent was not always having a second person count and verify the contents of the safe. The employer was unable to specify dates other than September 20 on which this occurred.

On June 12, 2006, Ms. Brent received a "performance letter" because of an allegation that she asked an employee to pay a cash shortage. There was a misunderstanding and she had not requested that the individual pay the shortage. On August 12, 2006, the district manager notified Ms. Brent of certain deficiencies at her facility. One of the issues was the fact that there was a moneybag labeled "extra money" that had not been deposited. On August 25, 2006, the employer met with Ms. Brent concerning the fact that she was signing another individual's name on bank deposit slips. The employer requires that two people count the deposit and that both sign the deposit slip. Ms. Brent had another individual count the deposit with her and then

signed the individual's name on the deposit slip. Before doing so, she advised the individual that she was signing for her. She signed the other individual's name on five occasions.

REASONING AND CONCLUSIONS OF LAW:

Ms. Brent was discharged from employment. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). After considering all of the evidence, the administrative law judge concludes that the employer has failed to establish disqualifying misconduct. Ms. Brent did sign another individual's name to the deposit slips. However, she did so only after having that individual count the deposit with her and advising the individual that she was signing her name. The problem did not continue after the employer spoke with her about the issue on August 25, 2006. She also failed to have a second individual verify the safe count with her on some occasions. The employer presented evidence of only one such occasion. The employer failed to present sufficient evidence to establish that Ms. Brent was neglecting to have a second person verify the safe on so many occasions that her actions amounted to misconduct. Her periodic lapses in this regard did not evince a willful and wanton disregard of the employer's standards or interests.

The employer's evidence established that Ms. Brent was an unsatisfactory employee. However, it did not establish to the satisfaction of the administrative law judge that she deliberately and intentionally acted in a manner she knew to be contrary to the employer's standards. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated October 11, 2006, reference 01, is hereby affirmed. Ms. Brent was discharged but disqualifying misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw