

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER M BOUSMAN
Claimant

APPEAL NO. 11A-UI-09361-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 05/22/11
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated June 20, 2011, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on August 8, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. Kim Hoenigh participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a cashier-cook from July 22, 2010, to May 24, 2011. The employer discharged her on May 24, 2011, after discovering that on May 21 the claimant's husband had purchased a refill of a 52-ounce mug of pop but the claimant only charged him for a 34-ounce refill, which amounted to about a 12 to 13 cent discount. She was discharged for intentionally undercharging a customer. The claimant had been trained by a manager that it was permissible to give an additional discount on refills to regular customers. She had observed other employees follow this same practice without being disciplined. Her coworker on the day in question confirmed that her husband should only be charged for the 34-ounce refill price because he was a regular customer of the store. The employer does not prohibit a cashier from ringing up a purchase of a family member. The claimant believed she was following proper procedure when she provided her husband with the regular-customer discount on pop refills.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the

contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. 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).

The employer has not met its burden of proving willful and substantial misconduct in the case. The claimant believed she was following proper procedure when she provided her husband with the regular-customer discount on pop refills.

DECISION:

The unemployment insurance decision dated June 20, 2011, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw