

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CYNTHIA C PURDY

Claimant

APPEAL NO. 08A-UI-07177-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

**OC: 06/22/08 R: 03
Claimant: Respondent (1)**

Section 96.(5)a – Discharge

STATEMENT OF THE CASE:

The employer, Casey's Marketing, filed an appeal from a decision dated July 30, 2008, reference 01. The decision allowed benefits to the claimant, Cynthia Purdy. After due notice was issued, a hearing was held by telephone conference call on August 25, 2008. The claimant participated on her own behalf and was represented by Douglas Stevens. The employer participated by Manager Dollie Horn. Exhibit One was admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Cynthia Purdy was employed by Casey's from May 27, 2008 until June 22, 2008 as a part-time cook/cashier. The claimant was discharged by Manager Dollie Horn due to allegations of insubordination. Ms. Purdy had called the corporate office to seek an explanation why she was not being trained as an assistant manager. She believed she had been hired as a manager trainee, but Ms. Horn did not believe she was "assistant manager material." The two had a discussion on June 21, 2008, about various issues, which apparently became somewhat acrimonious. The claimant left and the next day when she reported for work, she was discharged.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 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.

The claimant was discharged by the employer for allegations of insubordination. The employer made assertions regarding Ms. Purdy's conduct, which she has refuted. The administrative law judge does not find the employer's testimony to be any more or less credible than the claimant's. The employer did not provide any corroborating evidence or testimony about the incident. Since the employer has the burden of proof under chapter 96.6(2) of the Iowa Code, it must be concluded the employer has not met that burden.

DECISION:

The representative's decision of July 30, 2008, reference 01, is affirmed. Cynthia Purdy is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw