

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**DEBORAH L CROSSLEY
1441 – 270TH ST
LETTS IA 52754**

**MENARD INC
1903 PARK AVE
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-03617-CT
OC: 02/08/04 R: 04
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Deborah Crossley filed an appeal from a representative's decision dated March 2, 2004, reference 02, which denied benefits based on her separation from Menard, Inc. After due notice was issued, a hearing was held by telephone on April 22, 2004. Ms. Crossley participated personally. The employer participated by Jody Martin, Store Manager, and Wilma Daniels, Assistant Plumbing Manager. The employer was represented by James Anderson, Legal Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Crossley was employed by Menard, Inc. from September of 1998 until February 2, 2004. She was last employed full time in plumbing sales. She was discharged for falsifying her time card on January 30, 2004.

On January 30, Ms. Crossley notified her supervisor that she had completed a "punch verification" form because she did not have her badge used to clock in and out. The form indicated she had been to lunch from 12:36 until 1:08 p.m. The accuracy of these times was questioned and, therefore, the store's video surveillance tape was reviewed to determine when she had left and returned. The surveillance tape revealed Ms. Crossley leaving at 12:08 and returning at 1:23 p.m. The employer did not approach her immediately concerning the discrepancy to see if she would change the form on her own.

The employer confronted Ms. Crossley about the time card discrepancy on February 2. She initially denied that the times were inaccurate but later acknowledged that they were. She indicated to the employer that she had not done anything of that nature before. As a result of the falsification, Ms. Crossley was discharged on February 2. The above incident was the sole reason for the discharge.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Crossley was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct in connection with the employment. The employer had the burden of proving disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Crossley was discharged for giving false information on her time card. It was her responsibility to accurately report the amount of time taken for her lunch break. The administrative law judge was not persuaded that this was a good-faith error.

Ms. Crossley testified that she told a supervisor that she would be gone longer than the normal 30 minutes for lunch. Clearly she expected that her personal errands would take longer than 30 minutes. It was her testimony that she took almost 30 minutes (from 12:08 until 12:36 p.m.) performing work-related duties after she left the store and before actually starting her lunch break. Given this factor and the fact that she intended to be gone more than 30 minutes, she should have known that her return time could not have been 1:08 p.m. as she indicated on her time card.

Ms. Crossley's falsification of her time card constituted theft as it had the potential of her receiving pay for time she had not actually worked. Such conduct is clearly contrary to the type of behavior an employer has the right to expect. For the reasons cited herein, it is concluded that disqualifying misconduct has been established and benefits are denied.

DECISION:

The representative's decision dated March 2, 2004, reference 02, is hereby affirmed. Ms. Crossley was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/kjf