

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL J COCHRAN**  
Claimant

**APPEAL NO. 08A-UI-07180-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NPC INTERNATIONAL INC  
PIZZA HUT**  
Employer

**OC: 09/23/07 R: 02  
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Pizza Hut (employer) appealed a representative's July 31, 2008 decision (reference 03) that concluded Daniel Cochran (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 25, 2008. The claimant provided a telephone number but could not be reached at the time of the hearing. The administrative law judge left a voice mail message. The claimant did not contact the administrative law judge.

The employer participated by Stan Vetterick, Manager.

**ISSUE:**

The issue is whether the claimant was discharged for misconduct.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked as a part-time driver working evenings delivering pizzas. At the end of each shift the claimant would return all money and equipment to the employer.

On June 23, 2008, the employer took an order from a customer who needed change for a \$100.00 bill. The employer gave the claimant \$100.00 in change for the customer. The claimant did not return to the employer at the end of his shift. The employer filed a police report. The employer spoke to the claimant on June 24, 2008. The claimant said he did not return because he was jailed the night of June 23, 2008. The employer asked the claimant to return the money and equipment. The claimant never returned. The employer contacted law enforcement and found no record of the claimant's incarceration. The employer terminated the claimant's employment. Law enforcement had not located the claimant at the time of the hearing.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant was discharged for misconduct.

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 employer has the burden of proof in establishing disqualifying job misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The claimant clearly disregarded the standards of behavior which an employer has a right to expect of its employees. The claimant's actions were volitional. He intentionally took the employer's assets for his own purposes. 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.

## DECISION:

The representative's July 31, 2008 decision (reference 03) is reversed. The claimant is not eligible to receive unemployment insurance benefits because the claimant was discharged from

work for misconduct. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/pjs