

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GAIL L SCHROEDER**

Claimant

**APPEAL NO. 08A-UI-02294-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 02/03/08 R: 04  
Claimant: Appellant (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 16, 2008, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on March 24, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing with her representative, Esther J Dean, attorney at law. Connie Sublette participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from February 15, 2002, to January 29, 2008. In August 2005, she was promoted to the store manager position. Her supervisor was Connie Sublette.

The claimant received a verbal warning on January 23, 2007, because her employees were not completing all their required paperwork and duties. On May 11, 2007, the claimant received a written warning because her supervisor observed on a surveillance video an employee not wearing a proper uniform, an employee talking on a cell phone, and an employee eating and drinking behind the counter. The claimant was not working at the time. On August 21, 2007, she was warned about being an hour late in submitting her payroll and an employee being out of uniform and untrained. The claimant had discovered herself that the payroll was not done and was able to get the payroll in so the employees received pay without any delay.

In early January 2008, an employee in the claimant's store worked for one day and then quit. The claimant had assigned the task of entering the employee into the payroll system to the assistant manager. The assistant manager neglected to enter the employee in the system. Around January 25, 2008, the employee tried to collect his pay, management discovered the employee had not been entered into the payroll system. The claimant was discharged on January 29, 2008, based on the failure to enter the employee into the payroll system and her prior discipline.

## 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.

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 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).

While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established. No current of willful and substantial misconduct has been proven in this case. At most the evidence establishes an isolated instance of unsatisfactory conduct in that she probably needed to do some follow up to make sure the assistant manager had followed her instructions.

**DECISION:**

The unemployment insurance decision dated February 16, 2008, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs