

FINDINGS OF FACT:

The claimant started working for the employer on December 10, 2001. The claimant worked full time. During orientation the employer informs employees they will be discharged if they take anything that belongs to the employer.

On August 20, 2005, during a random search, a security guard discovered a stack of tray wiper towels under the claimant's coat as she was leaving work. The claimant had a stack of these about three inches thick.

When the employer talked to the claimant about this discovery, the claimant indicated that at the end of her shift a janitor told her she could take them because they were not any good. The employer talked to the janitor and he denied saying anything like this to the claimant. The claimant explained that she was taking them home because the employer was going to clean the locker rooms. The employer did not clean any lockers in August. On August 23, 2005, the employer discharged the claimant for theft of the employer's property.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant's testimony is not credible. First, the claimant reported that a janitor told her she could have the tray wiper towels because they were no good, but the janitor denied such a conversation took place when the employer talked to the janitor. Next, the claimant testified she was taking these towels home because the lockers were going to be cleaned, but the employer did not clean any lockers or locker rooms in August. The claimant also asserted she did not start collecting the tray wiper towels until the last eight days of her employment and there were spots of blood on the towels. The claimant provided no explanation as to why she just started collecting the towels and why if they had blood spots on them, she would take them home. Finally, the claimant failed to answer the questions that were asked of her. Instead, she "skirted" around the questions asked.

A preponderance of the evidence establishes the claimant intentionally attempted (concealing the towels underneath a coat) to take tray wiper towels home when she knew the employer would not allow her to do. The employer discharged the claimant for reasons that constitute work-connected misconduct. Therefore, the claimant is not qualified to receive unemployment insurance benefits as of August 28, 2005.

DECISION:

The representative's September 22, 2005 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of August 28, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

dlw/s