

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARINNE M MORSE
Claimant

APPEAL NO. 08A-UI-06797-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 07/21/08 R: 01
Claimant: Appellant (2)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Karinne Morse, filed an appeal from a decision dated July 21, 2008, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on August 11, 2008. The claimant participated on her own behalf. The employer, Casey's, participated by Manager Tami Mindham.

ISSUE:

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

FINDINGS OF FACT:

Karinne Morse was employed by Casey's from January 11 until June 20, 2008 as a part-time pizza maker and cashier. On June 19, 2008, the claimant called and spoke with Manager Tami Mindham and said she would not be able to come to work the next day. She had been "kicked out of" her house and might have to go to Des Moines to a shelter for domestic abuse victims. She did not have a vehicle or a driver's license and was not going to be able to come to work. It was her intent to move in with her adult daughter in a nearby town and have her daughter take her to work on subsequent days. Ms. Mindham asked her if she was quitting, and the claimant said, "Not right now." The manager said she would get the shift covered.

The next day Ms. Morse called and asked Ms. Mindham when she was scheduled to come in on June 21, 2008. The manager told her she had been replaced and was no longer needed.

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 employer maintains the claimant quit. However, there is insufficient evidence to support this contention. The claimant did call on June 19, 2008, to say she was not able to come in the next day because her domestic situation was so unsettled she did not have a place to live. She denied quitting, only that she was not able to come in the next day. This is supported by the employer's own testimony that Ms. Morse did call on June 20, 2008, to ask when she was scheduled for the next day. If she had quit, she would not have called in to inquire about her scheduled hours in the future.

The record establishes the claimant was replaced by the employer when she was not able to come to work due to a personal emergency for one shift. There is no evidence of misconduct and disqualification may not be imposed.

DECISION:

The representative's decision of July 21, 2008, reference 01, is reversed. Karinne Morse is qualified for benefits, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw