

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA D HAWKINS
Claimant

APPEAL NO. 07A-UI-10470-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MURPHY OIL USA INC
Employer

**OC: 10/07/07 R: 02
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Murphy Oil USA, Inc. filed an appeal from a representative's decision dated October 31, 2007, reference 01, which held that no disqualification would be imposed regarding Jessica Hawkins' separation from employment. After due notice was issued, a hearing was held by telephone on November 29, 2007. Ms. Hawkins participated personally. The employer participated by Annette Hatch, District Manager, and Rhonda Hoffman, Manager.

ISSUE:

At issue in this matter is whether Ms. Hawkins was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Hawkins began working for Murphy Oil USA, Inc. on July 17, 2007 as a cashier. She indicated on the application for hire that she had a theft charge in her past but had received a deferred judgment. A background check was conducted prior to her hire and no problems were found. On or about September 1, she was promoted to assistant manager. Because of the promotion, a more in-depth background check was conducted.

As a result of the second background check, Ms. Hawkins was discharged. Information received during the check caused the employer to believe that she had falsified her statement that the theft charges resulted in a deferred judgment. Ms. Hawkins had a good-faith belief that she did, in fact, receive a deferred judgment on the theft charge. The alleged falsification was the sole reason for the discharge on October 9, 2007.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321

N.W.2d 6 (Iowa 1982). The employer alleged that Ms. Hawkins' discharge was due to the falsification of her application for hire. This contention has not been established by the evidence. The employer conducted a preliminary background check before hiring Ms. Hawkins and found no evidence of a theft charge. The employer did not offer into evidence any report that would establish that the theft charge did not result in a deferred judgment as indicated by Ms. Hawkins on her application. In fact, neither of the individuals who participated in the hearing on the employer's behalf had seen the report of the second background check.

The employer failed to establish that Ms. Hawkins deliberately and intentionally indicated that she received a deferred judgment when she had not. Moreover, the administrative law judge is satisfied that she had a good-faith belief that she received a deferred judgment. For the reasons stated herein, the administrative law judge concludes that the employer has failed to satisfy its burden of proof in this matter. While the employer may have had good cause to discharge, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa 1983). Benefits are allowed.

DECISION:

The representative's decision dated October 31, 2007, reference 01, is hereby affirmed. Ms. Hawkins was discharged but misconduct has not been established. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs