

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTONIA R FELSING
Claimant

APPEAL NO. 11A-UI-04135-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S GENERAL STORE
Employer

**OC: 02/20/11
Claimant: Respondent (2)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

The employer, Casey's General Store (Casey's), filed an appeal from a decision dated March 23, 2011, reference 01. The decision allowed benefits to the claimant, Antonia Felsing. After due notice was issued a hearing was held by telephone conference call on April 25, 2011. The claimant did not provide a telephone number where she could be contacted and did not participate. The employer participated by Store Manager Kristy Bowman.

ISSUE:

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

FINDINGS OF FACT:

Antonia Felsing was employed by Casey's from May 16, 2010 until February 24, 2011 as a part-time cashier. Store Manager Kristy Bowman became aware of a serious cigarette shortage in the store's inventory a day or so before February 24, 2011. She began watching the video surveillance footage of the store.

The footage showed several improper "post voids" by the claimant. That means when a transaction has been completed, with money changing hands, the transaction would then be voided as if it never occurred. The problem with these voids by the claimant was that the merchandise had already left the store in the possession of the customer, not returned to the inventory, which is what should have happened if it was a legitimate void.

Ms. Bowman checked the electronic journal tapes on the cash registers and did not find that the customers had purchased new or different items after the void. The video also showed this. If the merchandise had been legitimately returned then the inventory would not have come up short. In addition, if the transaction was voided without the money being returned to the customer, the claimant's cash drawer would have been "over" by the amount of the transactions, but it never was.

After investigating Ms. Bowman met with the claimant to question her about the voids. The claimant denied knowing anything about the situation. The manager then showed her the surveillance video and asked her explain her conduct but she could not. At that time Ms. Bowman discharged Ms. Felsing.

Antonia Felsing filed a claim for unemployment benefits with an effective date of February 20, 2011. The records of Iowa Workforce Development indicate no benefits have been paid as of the date of the hearing

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 claimant was discharged for inappropriate and illegal "voids" on merchandise which had already left the store in the possession of the customer. The voids were not followed by money being returned to the customer or new merchandise being purchased. Because the cash drawer never showed any excess money than could be accounted for by regular transactions, and the claimant was the only one with access to that cash drawer during the pertinent time frame, she should have been able to explain why the drawers were not "long" for the amount of the voided transactions. The fact she did not, and there were more than one of these suspicious voids, it must be concluded the claimant was guilty of inappropriate and improper cash handling. It deprived the employer of inventory and income. This is a violation of the

duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. The claimant is disqualified.

DECISION:

The representative's decision of March 23, 2011, reference 01, is reversed. Antonia Felsing is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs