

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SHERRY A PRINE
Claimant

APPEAL NO. 10A-UI-12099-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**BETHANY ENTERPRISES WEL
QC MARTS**
Employer

**OC: 12/13/09
Claimant: Respondent (4)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed a department decision dated August 25, 2010, reference 04, that held the claimant was not discharged for misconduct on July 23, 2010, and that allowed benefits. A telephone hearing was held on October 14, 2010. The claimant participated. Anna DeFrieze, Area Supervisor, and Dayna McReynolds, Store Manager, participated for the employer. Employer Exhibit 1 was received as evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having, heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant worked for the employer as a part-time cashier from July 5, 2010 to July 23. The claimant knew it was employer policy to have customers pre-pay for gas. The claimant signed an agreement with her employer that authorized it to deduct any drive-offs from her weekly pay.

On July 17, claimant received \$15.00 from a pre-pay customer for the purchase of gas. The claimant had difficulty understanding the customer, who did not speak English well. The claimant was busy with customers and she did not notice the customer pumped gas of \$63.28, and left without paying the difference. Claimant left a note to the store manager about the incident. When the claimant came in to get her paycheck on July 23, the store manager told her to cash her paycheck, as \$12.00 would be deducted for a cash shortage and \$63.58 for the gas drive-off. The claimant refused. The manager replied for her to do it or she was done. The claimant left the store.

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.

The administrative law judge concludes the claimant was discharged for no act of misconduct on July 23, 2010.

The claimant had worked less than two weeks when she experienced difficulty with a customer who took advantage of her by tendering \$15.00 to pre-pay for gas and then pumping \$63.28 without paying the difference. The claimant offered credible testimony that when she came to the store to get her paycheck, she was requested to cash it there and remit about \$75.00 to the employer for a cash shortage and the drive off. Claimant was told to do it or she was done, and her decision to leave the store is a discharge. There was no claimant misconduct for refusing to give \$75.00 to the employer from her pay.

DECISION:

The department decision dated August 25, 2010, reference 04, is affirmed. The claimant was not discharged for misconduct on July 23, 2010. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw