

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA J HARDING
Claimant

APPEAL NO. 11A-UI-09697-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S GENERAL STORES
Employer

OC: 06/05/11
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's July 18, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated in the hearing. Prior to the hearing, the employer's representative informed the Appeals Section that the employer elected not to participate at the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is qualified to receive benefits.

ISSUE:

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in January 2010. She worked as a full-time lead at the A & W.

When the manager was out of town, an employee asked the claimant about an incident she had observed. The claimant told the employee that she could not talk to him about the incident, but would talk to the manager if she asked the claimant about the incident. When the manager returned to work a short time later, she discharged the claimant. The employer did not tell the claimant why she was discharged on June 7. Later, the claimant learned the employer incorrectly assumed the claimant had talked to an employee about a racial comment she may have overheard. The claimant, however, had not talked to the employee.

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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an

unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

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 employer may have had business reasons for discharging the claimant. Based on the evidence presented during the hearing, the claimant did not commit work-connected misconduct. As of June 5, 2011, the claimant is qualified to receive benefits.

DECISION:

The representative's July 18, 2011 determination (reference 01) is reversed. The employer discharged the claimant for reasons that do not constitute work-connected misconduct. As of June 5, 2011, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw