

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY L EDWARDS
Claimant

APPEAL NO. 13A-UI-13811-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 11/17/13
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Anthony Edwards, filed an appeal from a decision dated December 9, 2013, reference 01. The decision found him disqualified for unemployment benefits. After due notice was issued a hearing was held in Des Moines, Iowa, on January 21, 2014. The claimant participated on his own behalf. The employer, Casey's, participated by Area Supervisor Tammy Thompson, Manager Bill Perrenoud and was represented by TALX in the person of David Williams. Exhibits One and Two were admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Anthony Edward was employed by Casey's from October 6, 2008 until November 19, 2013 as a full-time cashier. In early November 2013 Area Supervisor Tammy Thompson had rearranged the product on the shelves on the back wall. This was done after consulting with District Manager Dan Gross and based on what was felt best for the needs of that store.

A week or so later Ms. Thompson found the back wall had been changed. This was done by an assistant manager. It was put back the way she wanted it and all the staff were told by Store Manager Bill Perrenoud that it was not to be changed.

Shortly thereafter Mr. Edwards took it upon himself to change the back wall again. He had asked the beer distributor if he minded that some of the Power Ade be placed in the area usually reserved for beer. He also mentioned it to the store manager who told him he knew it was not to be changed and if he decided to go ahead and change it, it would "be on [his] own head," meaning he would have to accept the consequences from Ms. Thompson.

When Ms. Thompson stopped by the store on November 19, 2013, she found the shelves rearranged again. Mr. Edward admitted to doing it and said he had asked the beer distributor if it was okay. The area supervisor told him the beer distributor was not his employer, but Casey's was. He continued to argue, trying to defend himself and saying that her arrangement was "stupid."

Ms. Thompson told him three times he was being insubordinate and to "check his attitude." He continued until she finally discharged him.

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 claimant was not discharged for rearranging the back shelves but for being insubordinate. He had been told three times to "check his attitude" but he kept arguing and trying to justify his unilateral decision to undo the design set by upper management. Instead of discussing it rationally he was attempting to force the employer to agree with his version of the situation and justify his refusal to obey clear and direct orders to leave the design unaltered.

Insubordination 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 December 9, 2013, reference 01, is affirmed. Anthony Edwards is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs