

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TONIA MEYER
Claimant

APPEAL NO. 07A-UI-00428-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARSON PIRIE SCOTT INC
Employer

**OC: 12/10/06 R: 02
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge for Misconduct
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

The employer filed a timely appeal from the January 2, 2007, reference 01, decision that held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was held on January 29, 2007. Claimant participated. Employer participated through Maggie Hoffa, Assistant Manager.

ISSUE:

The issue is whether the claimant was discharged for misconduct and whether the claimant has been overpaid unemployment insurance benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed from June 15, 2005 until December 2, 2006 when she was discharged. Ms. Meyer worked as a part-time sales associate and was paid by the hour.

The claimant was discharged after violating established company policy by ringing out a sales transaction for a family member and allowing the family member to obtain an authorized discount. Ms. Meyer was aware that company policy prohibited family members from having cash transactions with employees and was aware that her sister had not qualified for a product-specific discount that had been given to her by the claimant. Ms. Meyer was aware that violating the company rule could result in termination. She was discharged after agreeing that she had violated known policy.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes that the claimant violated the company's established policy, which prohibited employees from transacting sales with family members. The claimant was also aware that certain criteria had to be met before product-specific discounts were available to customers. Although the claimant was aware that her sister had not yet qualified for a discount, Ms. Meyer nonetheless granted one. Misconduct was in willful disregard of her employer's interests and standards of behavior that the employer had a right to expect from its employees under the provisions of the Iowa Employment Security

Law, therefore the administrative law judge must rule that the claimant's discharge took place under disqualifying conditions and benefits must be denied.

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.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge holds that the claimant is overpaid unemployment insurance benefits in the amount of \$484.00 pursuant to Iowa Code section 96.3-7 because a decision has determined the claimant is ineligible to receive benefits due to a discharge from misconduct.

DECISION:

The January 2, 2007, reference 01, representative's decision is hereby reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$484.00.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

tpn/css