

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RACHELLA D WILLIAMS
Claimant

APPEAL NO. 10A-UI-07613-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP LLC
Employer

OC: 04/18/10
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 17, 2010, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on July 13, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Chuck Quick participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked as a sales associate and key holder for the employer from March 25, 2009, to April 21, 2010. She was informed and understood that under the employer's work rules, employees could be discharged for repeated instances of cash overages or shortages of \$5.00 or more. She had a \$20.09 shortage on July 7, 2009, and received a final warning for this because it was over \$20.00.

On April 12, 2010, the assistant manager counted the claimant's register drawer at the end of her shift and found it was \$5.00 short. She did not report to this to the claimant who was still in the store to see if the money could be accounted for. On April 18, 2010, the assistant manager counted the claimant's register drawer at the end of her shift and found it was \$4.75 short. She did not report to this to the claimant who was still in the store to see if the money could be accounted for.

When the store manager learned that the claimant was short on April 12 and 18, the claimant was discharged on April 21, 2010. The claimant tried being careful in handling cash after her final warning in July 2009. She did not deliberately do anything to cause the shortages.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

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 substantial and 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).

No willful and substantial misconduct has been proven in this case. At most, the evidence shows isolated instances of ordinary negligence not equally willful misconduct in culpability.

DECISION:

The unemployment insurance decision dated May 17, 2010, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css