

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIELLE MILLER**  
Claimant

**APPEAL NO: 12A-UI-11233-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEYS MARKETING COMPANY**  
Employer

**OC: 08-19-12**  
**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge/Misconduct

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 12, 2012, reference 01, decision that denied benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 15, 2012. The claimant participated in the hearing. Angela White, manager, participated in the hearing on behalf of the employer. Employer's Exhibits One through Six were admitted into evidence.

**ISSUE:**

The issue is whether the employer discharged the claimant for work-connected misconduct.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time second assistant manager for Casey's from June 23, 2009 to August 22, 2012. She was discharged for rudeness to customers and co-workers. On January 7, 2011, she received a written warning after the employer received a customer complaint stating the claimant was rude and did not greet him/her or thank him/her (Employer's Exhibit Three). On March 29, 2012, the claimant received a written warning after she was working in the kitchen March 13, 2012, when a customer came in to pick up his pizza and it was not ready. He was upset about having to wait and the claimant made comments in the kitchen about his being upset, stating, "Excuse us for inconveniencing you," and making fun of him within earshot of the customer (Employer's Exhibit Four). The other assistant manager went into the kitchen and told them to be quiet and stop making comments about the customer (Employer's Exhibit Four). The customer came in to talk to Manager Angela White the following day and the employer issued the claimant a written warning March 29, 2012 (Employer's Exhibit Four). On August 16, 2012, the claimant received a written warning after she asked a register employee to help her count cigarettes, which took that employee away from the register (Employer's Exhibit Two). The warning also stated that instead of being at the register, the claimant was "running around the store doing things even when there is a long line of people to be helped at the register (Employer's Exhibit Two). Other employees told the employer the claimant spoke to them in a rude and disrespectful manner (Employer's Exhibit Two). The warning reminded the claimant that customers always come first and there is a "right way to talk

to customers and employees” and they should both always be talked to with respect (Employer’s Exhibit Two). On August 20, 2012, the employer received three customer complaints and an employee complaint regarding the way the claimant was treating customers and employees (Employer’s Exhibit One). The customers stated the claimant was rude, made the customers feel unwelcome, the line was long, and the claimant did not come to the register to help and she was loud with another employee in front of customers (Employer’s Exhibit One). An employee told the employer she asked the claimant for help and the claimant stated it was not her job and the co-worker should go and find a manual to answer her question when, in fact, it was the claimant’s job to help her co-workers as second assistant manager. As a result of the warnings and the claimant’s failure to improve her behavior, the employer terminated her employment August 22, 2012.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

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.

While the claimant acknowledges that her personality is a little rough and her actions could be interpreted as rude, she denies intentionally being rude to customers or co-workers. The employer, however, received several customer complaints, as well as co-worker complaints, that the claimant was rude, made customers feel unwelcome, let long lines form without helping

at the register, and was loud with co-workers in front of customers. This was an ongoing theme throughout the claimant's employment. As a convenience store, customer service is the employer's number one priority and it is possible the claimant's personality is not well suited to retail service. Customers rarely go to the trouble of launching a complaint unless very dissatisfied, but in this case several customers made complaints regarding the claimant and her behavior toward both customers and co-workers. The claimant was aware of her personality traits and tendency to be "a little rough" and had also been warned about her behavior, but despite those facts her behaviors continued. Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits must be denied.

**DECISION:**

The September 12, 2012, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw