

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID L HATTON
Claimant

APPEAL NO. 07A-UI-09217-C

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 09/02/07 R: 04
Claimant: Appellant (1)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

David Hatton filed an appeal from a representative's decision dated September 25, 2007, reference 01, which denied benefits based on his separation from Hy-Vee, Inc. After due notice was issued, a hearing was held on October 30, 2007 in Davenport, Iowa. Mr. Hatton participated personally. The employer participated by Duane Asche, Store Director; Brian Heuertz, Store Operations Manager; and Brad Albers, Assistant Store Director. The employer was represented by David Williams of Talx Corporation. Exhibits One through Eight were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Hatton was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Hatton was employed by Hy-Vee, Inc. from October 6, 2003 until August 29, 2007. He was last employed full time as a night stocker. He was discharged for falsifying time records. Prior to August 26, 2007, the night stock manager had been told by other crew members that Mr. Hatton was having someone clock him in and out on days he did not work. They did not identify who was clocking him in and out. Each employee has to enter a personal four-digit number to clock in and out.

The night stock manager noted that Mr. Hatton was in the store the evening of August 26 but was not scheduled to work. The next day, he learned that Mr. Hatton had clocked in and out for the shift that began August 26. The time records indicated that he had clocked in at 9:17 p.m. on August 26 and out at 6:46 a.m. on August 27. The shift manager maintains a daily log of each crew member that works during the shift. Mr. Hatton's name did not appear on the list of individuals who worked the shift that began August 26. Because he claimed time he did not actually work, Mr. Hatton was discharged on August 29, 2007.

During its investigation of the matter, the employer discovered other dates on which Mr. Hatton claimed time he did not work. He was not scheduled to work on June 15 but claimed hours. His name did not appear on the crew list for that date. He was scheduled to work from 9:00 p.m. on May 28 until 7:00 a.m. on May 29. The crew list indicated he left at 2:00 a.m. but the time records showed him clocking out at 6:20 a.m. on May 29.

REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Mr. Hatton was discharged after he claimed time he did not work. It was his contention that he clocked in on August 26 only to demonstrate to another employee how to use the system and that he cancelled the transaction. Even if that were the case, it would not explain why there was a clock-out time for the same shift. Someone would have had to use his four-digit number to clock him out. That number had to come from Mr. Hatton.

Falsification of time records is clearly contrary to the employer's interests as it has the result of the employer paying an individual for time not actually worked. Such conduct constitutes theft, which is contrary to the standards of behavior an employer has the right to expect. The fact that Mr. Hatton had claimed time not worked on prior occasions establishes that the incident of August 26 was not an isolated inadvertence. For the reasons stated herein, the administrative law judge concludes that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated September 25, 2007, reference 01, is hereby affirmed. Mr. Hatton was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs