

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SHELLY L HATFIELD**  
Claimant

**APPEAL NO: 13A-UI-00243-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EXPRESS LANE INC**  
Employer

**OC: 11/18/12**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's December 27, 2012 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant responded to the hearing notice, but was not available for the hearing. Sue Dravis, the payroll manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on February 20, 2012. She worked as a part-time cashier. When the claimant started working, the employer gave her a copy of the employer's rules. One rule informed her that if an employee stole from the employer, the employee would be discharged.

On November 5, 2012, the employer's cash register was short \$200.00. The employer reviewed the video for that day and saw another cashier place money in a drop envelope. Before the cashier had an opportunity to deposit the money, \$200.00, in a drop box, a customer came to the register. The cashier put the envelope by the side of the cashier and helped other customers with food and checked them out at the cash register. When the claimant started her shift, this cashier left. The cashier who left forgot about the envelope and did not deposit the money.

When the claimant was alone and no customers were in the store, the video shows that she looked inside the envelope and saw money in the envelope. The video then recorded the claimant picking up the envelope with money in it. She went to the back room where she put the envelope in her purse.

On November 6, the employer asked the claimant about the envelope she put in her purse. The claimant denied she took any money. After the employer told her about the video, the claimant indicated the envelope she put in her purse only had non-winning lottery tickets. Cashiers usually throw away non-winning lottery tickets.

Before the employer discharged the claimant on November 12, other management reviewed the video. They independently concluded the claimant put an envelope with the employer's money in her purse.

The claimant established a claim for benefits during the week of November 18, 2012. She has filed weekly claims and received benefits since November 18.

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

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

Dravis personally reviewed the video and saw the claimant put an envelope with money in her purse. The employer was \$200.00 short and the envelope another cashier forgot to put in the drop box had \$200.00 in it. Based on the evidence presented at the hearing, the claimant took \$200.00 of the employer's money. She committed work-connected misconduct. As of November 18, the claimant is not qualified to receive benefits.

Issues of overpayment and whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's December 27, 2012 determination (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of November 18,

2012. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

The issue of overpayment and whether the claimant is eligible for a waiver of any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/tll