

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTY STURM**

Claimant

**APPEAL NO. 11A-UI-02569-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S GENERAL STORES**

Employer

**OC: 12/19/10**

**Claimant: Appellant (1)**

Iowa Code § 96.5(2)(a) - Discharge for Misconduct

**STATEMENT OF THE CASE:**

Christy Sturm (claimant) appealed an unemployment insurance decision dated February 22, 2011, reference 01, which held that she was not eligible for unemployment insurance benefits because she was discharged from Casey's General Stores (employer) for work-related misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 29, 2011. The claimant participated in the hearing. The employer participated through Randi McFarland, Manager. Employer's Exhibit One was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired as a full-time clerk/cashier on September 2, 2005 and she became an assistant manager in approximately 2008. She was discharged for selling cigarettes to a minor on December 16, 2010. The employer's policy regarding age-restricted products provides that employees caught selling age-restricted product to under-age persons are subject to immediate dismissal, with no eligibility for rehire, as well as criminal penalties and heavy fines.

Employees must request appropriate picture identification for all age-restricted product sales to those who appear to be younger than 27 years of age. The claimant signed the employee handbook verification form on September 2, 2005. She signed the employee pledge regarding selling age-restricted products on March 25, 2010. The pledge provides that the claimant read and understood the company policy regarding the sale of age-restricted products and that she was aware that violating this policy could include criminal sanctions and termination of employment. Employees are advised that "when in doubt do not make the sale."

The employer's policy requires employees to ask a customer's age if the customer appears younger than 30. The employee must request a picture identification card (ID) and then verify the validity of the ID. The customer's age can be verified by scanning the ID or entering the customer's birth date into the Retalix register screen. The cash register/computer will then advise whether the sale can proceed or not.

On December 16, 2010, the police sent in an under-age female to purchase cigarettes. After the customer requested cigarettes, the claimant looked at her for a period of time but then decided she had sold cigarettes to this customer previously and did not request ID. The police notified the claimant she had sold cigarettes to a minor. The employer was fined and the claimant was discharged at that time.

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

The issue is whether the employer discharged the claimant for work-connected misconduct. A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a.

Iowa Code § 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.

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 employer discharged the claimant on December 16, 2010 for violation of its work rules by selling cigarettes to a minor without carefully checking the person's identification. The weight of the evidence in the record establishes that the claimant knowingly and intentionally violated the employer's tobacco products policy and the law that prohibits sale of tobacco products to minors by her failure to take the proper steps to determine whether the customer was of legal age to purchase tobacco products. The claimant admitted she looked at the customer for a period of time and if she had any doubt, she should have confirmed the customer's age. It is a simple procedure that takes seconds to complete. The claimant's violation of a known work rule was a willful and material breach of the duties and obligations to the employer and a substantial disregard of the standards of behavior the employer had the right to expect of the claimant. Work-connected misconduct as defined by the unemployment insurance law has been established in this case and benefits are denied.

**DECISION:**

The unemployment insurance decision dated February 22, 2011, reference 01, is reversed. The claimant is not eligible to receive unemployment insurance benefits, because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

---

Susan D. Ackerman  
Administrative Law Judge

---

Decision Dated and Mailed

sda/kjw