

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOUGLAS E YOUNGER**  
Claimant

**APPEAL NO. 08A-UI-04553-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NPC INTERNATIONAL INC  
PIZZA HUT**  
Employer

**OC: 04/13/08 R: 04  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Employer filed an appeal from a representative's decision dated May 2, 2008, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 27, 2008. Although duly notified the claimant did not participate. Participating for the employer was Kenny Versteegh, General Manager.

**ISSUE:**

The issue in this matter is whether the claimant was discharged for intentional disqualifying misconduct.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer from February 2007 until April 7, 2008 when he quit his employment in lieu of being discharged for a cash register error. Mr. Younger was employed as a full-time shift manager and was paid by the hour. His immediate supervisor was Kenny Versteegh.

Mr. Younger left his employment with the captioned employer, doing business as Pizza Hut, rather than being discharged for a cash register error. Mr. Younger was \$100.00 short in his register. Although the register drawer was assigned to the claimant other employees had access to the drawer. Based upon the shortage in cash register funds, a decision was made by the employer to separate Mr. Younger from his employment. The claimant resigned in order to protect his employment history.

**REASONING AND CONCLUSIONS OF LAW:**

The employer has the burden of proof in this matter. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment insurance benefits.

Misconduct serious enough to warrant a discharge of an employee is not necessarily serious enough to warrant a denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate intentional culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Court of Appeals 1992).

The evidence in this case establishes that the employer made a management decision to terminate Mr. Younger based upon cash register errors. The evidence establishes, however, that Mr. Younger did not have sole access to the cash register in question and that other employees were able to access the register during the period in question.

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 decision to terminate Mr. Younger may have been a sound decision from a management viewpoint, for the above-stated reasons the administrative law judge concludes that intentional disqualifying misconduct on the part of the claimant has not been shown. Unemployment insurance benefits are allowed providing the claimant meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated May 2, 2008, reference 01, is hereby affirmed. The claimant was discharged under nondisqualifying conditions. Unemployment insurance benefits are allowed, providing the claimant meets all eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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