

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**REBECCA L ADAMS**

Claimant

**APPEAL NO. 11A-EUCU-00063-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S GENERAL STORES**

Employer

**OC: 12/21/08**

**Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated January 7, 2011, reference 02, that denied unemployment insurance benefits based upon her separation from Casey's General Stores. After due notice was issued, a telephone hearing was held on February 21, 2011. The claimant participated personally. The employer participated by Sonya Hixson, manager.

**ISSUE:**

At issue is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge find: Rebecca Adams was employed by Casey's General Stores from April 27, 2010, until November 10, 2010, when she was discharged for selling tobacco products to a minor. Ms. Adams worked on a part-time basis as a cashier and was paid by the hour. Her immediate supervisor was Sonya Hixson.

The claimant was discharged after she violated a strict company policy that required clerks to personally check and scan the identification of purchasers of alcohol or tobacco products if the purchaser appeared to be 27 years of age or younger. The company emphasized the rule and warns clerks that they are subject to discharge for violating the rule.

Ms. Adams sold a container of chewing tobacco to an underage individual who had been sent to the facility as part of a law enforcement "sting operation." The adolescent purchaser was wearing a big coat and hat at the time and appeared to Ms. Adams to be of age. She therefore sold the tobacco product without asking for identification and checking or scanning it as required by policy. Both Ms. Adams and the Casey's store were fined for the violation.

## REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits. She was.

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.

In this case, the evidence establishes that Casey's General Stores places a high emphasis on the requirement that clerks check all purchasers of tobacco or alcohol products who do not appear to be at least 10 years older than the minimum purchase age for the product. On the day in question, Ms. Adams sold a tobacco product to an adolescent under the age of 17 without asking for identification and checking or scanning it as required by company policy. Although the administrative law judge is aware that Ms. Adams maintains that she believed the adolescent looked to be "30 years old," the administrative law judge finds the claimant's testimony to strain credibility, as the evidence establishes that the adolescent was under 17 years of age.

The employer's rule is reasonable and work-related and designed to make the cashiers' jobs easier. Cashiers needed only to inform the potential purchaser of the company rule as a reason for checking their identification. The employer's rule was reasonable, work-related, and Ms. Adams was aware of it. The employer's policy was designed to remove the discretion from

cashiers as to whether to check for ID by making the age for checking the individual more encompassing. Ms. Adams did not follow the rule and was discharged. Benefits are withheld.

**DECISION:**

The representative's decision dated January 7, 2011, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she meets all other 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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