

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

APRIL L DENT
Claimant

DOLLAR TREE STORES INC
Employer

APPEAL 22A-UI-06103-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/30/22
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge from Employment

STATEMENT OF THE CASE:

On March 9, 2022, claimant April L. Dent filed an appeal from the February 28, 2022 (reference 02) unemployment insurance decision that denied benefits based on a determination that claimant was discharged from employment for theft. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Monday, May 9, 2022. The claimant, April L. Dent, participated. The employer, Dollar Tree Stores, Inc., did not appear for or participate in the hearing. No exhibits were offered or admitted.

ISSUE:

Was the claimant discharged from employment for disqualifying, job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Dollar Tree Stores, Inc., on February 17, 2019. Most recently, she worked for the employer as a full-time store manager. Claimant's employment ended on January 26, 2022, when she was discharged.

On January 25, claimant reported back to work after a twelve-day absence. When claimant returned, she discovered that Asset Protection was at the store investigating prior reports the claimant had made about one of the store's assistant managers stealing from the store. Claimant and another assistant manager had made multiple complaints about this person's theft. Claimant learned that, while she was on leave, the store's district manager had caught this assistant manager stealing from the store safe. Ultimately, this assistant manager admitted to stealing \$1,800.00 from the store.

Later that day, the district manager and Asset Protection brought claimant into the office. The district manager notified claimant that the assistant manager who was stealing had accused claimant of stealing from the store also. Claimant thinks that at some point over the course of her employment, she may have forgotten to pay for a pop once or twice, but that would have been the extent of any "theft" on her part. However, even though she told the district manager that, he kept pushing her to admit to stealing. He made her write a statement admitting to

stealing \$25.00 worth of merchandise. He then called her into the store the following day and discharged her.

Claimant knows the employer has policies that prohibit stealing from the business. She denies ever intentionally stealing from the employer. She had no idea her job was in jeopardy for theft. She believed that, at most, she may be subjected to a disciplinary suspension. Claimant suggested during her testimony that her discharge may have been connected to her refusal to trade stores with another person back in December.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

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.

Iowa Admin. Code r. 871-24.32(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.

This definition of misconduct has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Reigelsberger v. Emp't Appeal Bd.*, 500 N.W.2d 64, 66 (Iowa 1993); *accord Lee v. Emp't Appeal Bd.*, 616 N.W.2d 661, 665 (Iowa 2000). The employer has the burden of proof in establishing disqualifying job misconduct. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established. In cases where a suspension or disciplinary layoff exists, the claimant is considered as discharged, and the issue of misconduct shall be resolved.

In an at-will employment environment an employer may discharge an employee for any number of reasons or no reason at all, provided the discharge is not contrary to public policy. However, if the employer fails to meet its burden of proof to establish job related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation.

Here, the employer did not participate in the hearing to present any evidence of disqualifying misconduct. The claimant denies engaging in any theft of company property. She admits to possibly forgetting to pay for a pop on one or two occasions over the course of years-long employment. This is not the same as stealing money out of the employer's safe. The employer has failed to establish that the claimant was discharged for disqualifying, job-related misconduct. Benefits are allowed.

DECISION:

The February 28, 2022 (reference 02) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

May 11, 2022
Decision Dated and Mailed

lj/lj