

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANE L LOCHNER**  
Claimant

**APPEAL NO. 12A-UI-00046-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOODWILL INDUSTRIES OF THE  
HEARTLAND**  
Employer

**OC: 11/27/11  
Claimant: Appellant (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated December 22, 2011, reference 01, that concluded she was discharged for work-connected misconduct. A telephone hearing was held on February 1, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Mary Kating participated in the hearing on behalf of the employer with witnesses, Danielle Fee, Kim Theis, and Todd Pope.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer as an assistant manager from January 19, 2009, to November 23, 2011.

The employer suspended the claimant after November 23 and discharged her on November 28, 2011, after management discovered that when the claimant was the closing manager she would allow employees to quit working 15 to 30 minutes before the end of the shift and take a break until the end of the shift. Employees reported this to management on November 13, 2011, and the store manager conducted an investigation including taking statements from employees and observing outside the store on November 20. The store manager determined that at least on November 11, 15, and 20 the claimant had the employees stop working early and wait around idle until the end of their shifts, including allowing employees to smoke just outside the store until the end of the shift. When confronted about this on November 23, 2011, the claimant admitted to allowing employees to quit working early. The claimant had received several prior warnings regarding other issues, but not for this conduct.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

The claimant's conduct 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.

**DECISION:**

The unemployment insurance decision dated December 22, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs