

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TOSHA M GARCIA PALAFOX
Claimant

APPEAL NO. 07A-UI-03224-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DOLGENCORP INC
Employer

OC: 02/25/07 R: 01
Claimant: Respondent (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Dolgencorp, Inc. (employer) appealed a representative's March 19, 2007 decision (reference 01) that concluded Tosha M. Garcia Palafox (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reason. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 16, 2007. The claimant participated in the hearing. Terri Tomlinson, the manager, appeared on the employer's behalf. 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:

Did the employer discharge the claimant for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on June 5, 2006. The claimant worked as a full-time assistant manager.

The employer gave the claimant a written warning on December 28, 2006. The employer gave the claimant this warning after concluding the claimant was the manager responsible for a \$50.00 shortage. The claimant did not agree with the employer's conclusion and declined to sign the written warning.

On February 9, 2007, the claimant was in a hurry to get some cash register drawers out to the front. In her haste, the claimant inadvertently forgot she left the bank deposit money out on the counter. The money was on the counter for a period of time, instead of in the safe. As soon as the claimant remembered the money, she put it back in the safe. The area where the bank deposit was left out was in a locked room.

When the employer reviewed security tapes on February 12 and noticed money left out, the employer talked to the claimant. The claimant acknowledged she had forgotten to put the bank

deposit money back in the safe. On February 22, 2007, the employer discharged the claimant for leaving money out on the counter. There was no money missing even though the claimant left it out for a while.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. 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 propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant. The facts do not, however, establish that the claimant intentionally disregarded the employer's interests. The claimant made a mistake and forgot to put the bank deposit money back in the safe before taking the cash registers drawers out. When she remembered she had not put the money back in the safe, she immediately put the money away.

DECISION:

The representative's March 19, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of February 25, 2007, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw