

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**HAZEL "JODONNA" WOODLAND**  
Claimant

**APPEAL NO: 13A-UI-08753-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**VON MAUR INC**  
Employer

**OC: 06/09/13**

**Claimant: Appellant (2)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

Hazel "Jodonna" Woodland (claimant) appealed a representative's July 17, 2013 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Von Maur, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 4, 2013. The claimant participated in the hearing. Brenda Goodnough appeared on the employer's behalf. One other witness, Mary Lilley, was available on behalf of the employer but did not testify. During the hearing, Employer's Exhibits One through Five were entered into evidence. 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:**

Was the claimant discharged for work-connected misconduct?

**OUTCOME:**

Reversed. Benefits allowed.

**FINDINGS OF FACT:**

The claimant started working for the employer on October 1, 2012. She worked full time as a sales associate at the employer's Cedar Rapids, Iowa store. Her last day of work was June 10, 2013. The employer discharged her on that date. The reason asserted for the discharge was falsifying company records to take sales that were not hers.

On June 1 the employer became aware of a transaction the claimant had handled on May 31 for \$515.74; the customer indicated on a consumer service follow-up call that it had not been the claimant who had actually assisted her in her shopping. The employer then looked into some other transactions and found transactions on May 22 for \$73.83 and May 18 for \$138.03 where the claimant had been shown as the associate who handled the transactions, after a prior transaction for the items with another associate was voided within a few minutes prior. The employer concluded that the claimant had switched the sales to get the one percent commission

that would have come from the sales. The claimant denied that she had taken sales that had not belonged to her; on one transaction, another sales associate had told her to go ahead and ring up the customer on her own account, one of the other transactions the claimant specifically remembered making the sale to the customer, and on the third she did not clearly remember but believed that she had made the sale. She acknowledged that the prior transaction sales had been voided and re-rung on the two sales to be under her account, but indicated that this was done because another associate had been logged into the register when the claimant initially rang up the transactions. She acknowledged that she may not have followed the proper procedure for voiding and re-ringing sales in such a situation, but one of the re-rung transactions had been approved by a floor manager at the time.

The employer had given the claimant some verbal and written reprimands in the past, but none directly for an issue of improperly voiding transactions or for appearing to have taken sales that were not hers. Because of the employer's conclusion that the claimant had intentionally been taking sales that were not hers in the May transactions, the employer discharged the claimant.

#### **REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer has discharged the claimant for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. Before a claimant can be denied unemployment insurance benefits, the employer has the burden to establish the claimant was discharged for work-connected misconduct. *Cosper v. IDJS*, 321 N.W.2d 6 (Iowa 1982). The question is not whether the employer was right to terminate the claimant's employment, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. IDJS*, 364 N.W.2d 262 (Iowa App. 1984). What constitutes misconduct justifying termination of an employee and what is misconduct that warrants denial of unemployment insurance benefits are two separate matters. *Pierce v. IDJS*, 425 N.W.2d 679 (Iowa App. 1988).

In order to establish misconduct such as to disqualify a former employee from benefits an employer must establish the employee was responsible for a deliberate act or omission which was a material breach of the duties and obligations owed by the employee to the employer. 871 IAC 24.32(1)a; *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445 (Iowa 1979); *Henry v. Iowa Department of Job Service*, 391 N.W.2d 731, 735 (Iowa App. 1986). The conduct must show a 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Henry*, supra. In contrast, 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. 871 IAC 24.32(1)a; *Huntoon*, supra; *Newman v. Iowa Department of Job Service*, 351 N.W.2d 806 (Iowa App. 1984).

The reason cited by the employer for discharging the claimant is the conclusion that she had been altering transactions to take sales that were not hers. While the claimant may not have been following proper procedure in the process of voiding the sales, the employer has not established by a preponderance of the evidence that the claimant was intentionally doing so and was taking sales that were not hers. The employer has not met its burden to show disqualifying misconduct. *Cosper*, supra. Based upon the evidence provided, the claimant's actions were

not misconduct within the meaning of the statute, and the claimant is not disqualified from benefits.

**DECISION:**

The representative's July 17, 2013 decision (reference 02) is reversed. The employer did discharge the claimant but not for disqualifying reasons. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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