

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KEVIN L CARPENTER
Claimant

HOBBY LOBBY STORES INC
Employer

APPEAL NO. 21A-UI-09073-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 25, 2021, reference 02, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on July 14, 2021. Claimant participated personally and with witness Katherine Shadiwy. Employer participated by Annalee Miller and Shawn Ashby. Claimant's Exhibits A-B (letters purported to be from former coworkers) and Employer's Exhibits 1-7 (including an Employee Journal, 4 employee warnings, 5 cashier reports, a handbook receipt, a policy update, handbook rules, and attendance and break rules) were admitted into evidence.

ISSUE:

Whether claimant was discharged for misconduct?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on February 9, 2021.

Employer discharged claimant on February 9, 2021 because claimant had multiple errors on his cash register after repeated warnings for cashier errors. Claimant's last, most recent error occurred on February 3, 2021 when claimant was ringing up a split transaction. The customer gave claimant two one-dollar bills. Claimant rang up \$20.00 which resulted in his till being \$18.00 short at the end of the day.

Claimant previously had numerous errors while working the cash registers. He received four prior warnings and five previous cashier reports. On the most recent warnings it was indicated that further errors could result in actions up to termination.

Claimant stated that the errors in checking out people were based on a lack of proper training. Although he was supposed to receive multiple types of trainings, claimant said that these trainings were abbreviated, if he received any training at all. Claimant additionally stated that he

did not know whether his drawer was actually short or missing funds as others could have made the errors that resulted in counts that were off at the end of the day. Employer stated that the register claimant was operating at the time of the last incident was only operated by claimant on the day in question.

Claimant worked as a cashier for approximately a year prior to his termination. Over that period of time he successfully handled thousands of transactions and a great many split tender transactions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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 has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

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. Iowa Department of Job Service*, 321 N.W.2d 6 (Iowa 1982), Iowa Code § 96.5-2-a.

The gravity of the incident, number of policy violations and prior warnings are factors considered when analyzing misconduct.

In this matter, the evidence established that claimant was discharged for an act of misconduct when claimant violated employer's policy concerning carelessness with regard to operating the cash register. Claimant was warned on multiple occasions concerning this policy.

The last incident, which brought about the discharge, constitutes misconduct because claimant knew how to conduct split transactions as he had done them dozens of times in the past. Claimant's actions were not willful in any way, but showed carelessness or negligence of such degree of recurrence as to manifest equal culpability. Claimant's arguments as to a lack of training do not hold weight as claimant successfully completed thousands of transactions and dozens of split transaction. He knew how to do the transactions, but was just careless on repeated occasions. The administrative law judge holds that claimant was discharged for an act of misconduct and, as such, is disqualified for the receipt of unemployment insurance benefits.

DECISION:

The decision of the representative dated March 25, 2021, reference 02, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.



Blair A. Bennett
Administrative Law Judge

July 23, 2021
Decision Dated and Mailed

bab/lj