

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PEGGY J SCHMIDT
Claimant

APPEAL NO. 14A-UI-09650-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 08/17/14
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated September 8, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on October 7, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Bonnie Martin participated in the hearing on behalf of the employer. Exhibits One through Three were admitted into evidence at the hearing.

ISSUE:

Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer as a clerk from August 31, 2011, to August 21, 2014. She was informed and understood that under the employer's work rules, employees were prohibited from selling age-restricted products such as alcohol and cigarettes to persons under the legal purchasing age.

On August 12, 2014, the Federal Food and Drug Administration conducted a sting operation in the store while the claimant was working. A minor was able to buy cigarettes from the claimant. The claimant asked and scanned the minor's identification per policy but when the claimant examined the identification she misread the "1998" for "1996" and made the sale to the under aged customer. This was negligence not a deliberate act.

After management discovered the claimant sold cigarettes to a minor, the employer discharged the claimant for that reason on August 21, 2014.

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).

Negligence does not constitute misconduct unless recurrent in nature; a single negligent act is not disqualifying. *Henry v. IDJS*, 391 N.W.2d 731 (Iowa App. 1986). In this case, the claimant was discharged for a single act of negligence. While the employer may have been justified in discharging the claimant, work-connected misconduct as defined by the unemployment insurance law has not been established.

DECISION:

The unemployment insurance decision dated September 8, 2014, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs