

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICK MORAN
Claimant

APPEAL NO: 13A-UI-09903-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY
Employer

OC: 07/28/13
Claimant: Appellant (1)

Section 96.5-2-a – Discharge/Misconduct

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 21, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 18, 2013. The claimant participated in the hearing with Attorney Laura Jontz. Ron Niermeyer, Area Supervisor, participated in the hearing on behalf of the employer. Employer's Exhibit One was admitted into evidence.

ISSUE:

The issue is whether the employer discharged the claimant for work-connected misconduct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a part-time associate for Casey's from July 5, 2011 to July 10, 2013. On June 24, 2013, the employer received a customer complaint about the claimant. The customer had called to order a pizza and stated the claimant was rude and hard to understand and seemed unhappy to have to take the order. He almost hung up on her before she could give him her name and address. The employer issued the claimant a written warning on June 27, 2013, noting it was the second time it had to address an issue of a customer complaint with the claimant.

The customer who made the complaint worked at the BP Travel Center attached to a McDonalds. On July 6, 2013, the claimant went to her place of business and yelled and cursed and threatened her for making the complaint that resulted in his written warning. The customer called the police but the claimant had left by the time they arrived so they went to Casey's and found him. He was instructed not to return to the customer's employer and if he did so he would be charged with trespass. The employer determined that behavior warranted termination. When speaking to the claimant about the issue the claimant stated he thought it was the right thing to do and maintained he would do it again.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The claimant went to a customer's place of business after learning the customer made a complaint to his employer about his service and attitude toward her. His behavior at her job threatened her to the degree she felt the need to call the police. While the claimant denies it was "that dramatic" the police still saw fit to tell him not to return to that customer's place of business or he would face trespass charges. The claimant's behavior was completely unprofessional and inappropriate and the claimant knew or should have known the employer would never condone him confronting a customer who made a complaint about him. The claimant argues he was off work and off company property but he was there due to a work complaint and in his capacity as a Casey's employee.

Under these circumstances, the administrative law judge concludes the claimant's conduct demonstrated a willful disregard of the standards of behavior the employer has the right to expect of employees and shows an intentional and substantial disregard of the employer's interests and the employee's duties and obligations to the employer. The employer has met its burden of proving disqualifying job misconduct. Cosper v. IDJS, 321 N.W.2d 6 (Iowa 1982). Therefore, benefits are denied.

DECISION:

The August 21, 2013, reference 01, decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs