

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARRIE L HOLCOMB

Claimant

APPEAL NO. 08A-UI-11748-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CIGARETTE OUTLET INC

Employer

**OC: 10/26/08 R: 04
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Carrie Holcomb filed an appeal from a representative's decision dated December 4, 2008, reference 01, which denied benefits based on her separation from Cigarette Outlet, Inc. After due notice was issued, a hearing was held by telephone on December 30, 2008. Ms. Holcomb participated personally. The employer participated by Debra Schnyder, Supervisor.

ISSUE:

At issue in this matter is whether Ms. Holcomb was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Holcomb was employed by Cigarette Outlet, Inc. from November 13, 2006 until October 14, 2008. She was last employed full time as manager, a position she had held since April of 2007. She left the employment due to a robbery at her store on October 14, 2008. She was working alone at the time of the robbery, which was at approximately 7:00 a.m. The robber was not armed and left the store with \$9,610.00. Ms. Holcomb finished out her shift after the robbery and later notified the employer that she was quitting.

Continued work would not have been available to Ms. Holcomb after the robbery, because she did not use due care in protecting the employer's assets. She had \$9,610.00 out on a desk in the office at the time of the robbery. This money represented at least four day's worth of deposits. Deposits are supposed to be made on a daily basis. Ms. Holcomb had made a deposit on October 13 but still had over \$9,000.00 in cash on hand in the store on October 14. She did not have the surveillance camera on at the time of the robbery. She told the employer she was using the video machine to monitor what another employee did during her shift. If Ms. Holcomb had not quit, she would have been discharged for her handling of the store's funds.

REASONING AND CONCLUSIONS OF LAW:

A voluntary quit presupposes that, but for the quit, continued work would have been available to an individual. In the case at hand, Ms. Holcomb notified the employer that she was quitting. However, it does not appear that she actually had a job to quit, as the employer did not intend to retain her after the robbery. For the above reasons, the separation is considered a discharge. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982).

Ms. Holcomb's discharge was based on her failure to protect company assets. The employer's loss during the robbery could have been minimized if Ms. Holcomb had made bank deposits on a daily basis as required. She went to the bank on October 13. If she had made a full deposit at that time, the amount of funds available to the robber on October 14 would have been minimal. The robbery took place shortly after the store opened on October 14 and only the money taken in that day should have been available to the robber. The evidence failed to establish any justification for not making the bank deposits as required.

If she was unable to make bank deposits during the day, Ms. Holcomb could have made night deposits. Having been a manager for over one year, she knew or should have known how large a packet could fit in the bank's night depository slot. She could have bundled the funds in such a way that she could accomplish the deposits without bringing money back to the store. Although she was spending time training at another store during a portion of the time when the deposits were not made, this factor did not prevent her from making deposits. She had time to make deposits either before she reported to the other location or after leaving that location. At the very minimum, she could have notified her supervisor that deposits were not being made so that alternative arrangements could be made to handle the deposits.

Ms. Holcomb disregarded the employer's best interests in having over \$9,000.00 out on the desk rather than in the safe. She also disregarded the employer's interests in not having the surveillance camera on at the time of the robbery. It was not unreasonable for the employer to expect the camera to be on at all times when the store was open to the public. If Ms. Holcomb needed to watch a video to monitor an employee's activities, it could have been done after hours.

Because she was a manager, the employer had the right to expect Ms. Holcomb to be more diligent in protecting its assets. Her failure to make timely deposits and her failure to have the money in the safe caused the employer to suffer a substantial monetary loss. Her failure to have the surveillance camera on hampered the ability to catch the robber. For the reasons cited herein, it is concluded that substantial misconduct has been established by the evidence. Accordingly, benefits are denied.

DECISION:

The representative's decision dated December 4, 2008, reference 01, is hereby affirmed. Ms. Holcomb was discharged for misconduct in connection with her employment. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw