

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KRYSTINA CARDIN
Claimant

APPEAL NO: 11O-UI-06017-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEERY BROTHERS INC
Employer

OC: 11-14-10
Claimant: Respondent (2-R)

Iowa Code § 96.5-2-a – Discharge/Misconduct
Iowa Code § 96.3-7 – Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 27, 2011, reference 01, which allowed benefits to the claimant. Administrative Law Judge Susan Ackerman conducted an initial hearing on this matter in appeal 11A-UI-01406-BT in which benefits were denied. The claimant appealed the decision indicating she did not participate due to not receiving the hearing notice in time for the hearing. The Employment Appeal Board remanded for a new hearing in an order dated May 4, 2011. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 27, 2011. The claimant participated in the hearing. Janet Walker, Detail Manager and Jackie Nolan, Employer Representative, participated in the hearing on behalf of the employer. Employer's Exhibits One through Five were admitted into evidence.

ISSUE:

The issue is whether the claimant was discharged from employment for disqualifying job misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The Findings of Fact set forth in the decision in appeal 11A-UI-01406-BT are adopted and incorporated herein as if set forth at length.

REASONING AND CONCLUSIONS OF LAW:

The Reasoning and Conclusions of Law of the administrative law judge in appeal 11A-UI-01406-BT are adopted and incorporated herein as if set forth at length.

DECISION:

The unemployment insurance decision dated January 27, 2011, reference 01, is reversed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant has received benefits but was not eligible for those benefits. The matter of determining the amount of the overpayment and whether the overpayment should be recovered under Iowa Code § 96.3-7-b is remanded to the Agency.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs