

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MICHAEL E HEIDERSCHIED**  
Claimant

**DOLGENCORP LLC**  
Employer

**APPEAL 19A-UI-03141-H2T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/17/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the April 3, 2019, (reference 01), decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 6, 2019. Claimant participated. Employer participated through Eugene Harper, Store Manager.

**ISSUE:**

Was the claimant discharged due to job connected misconduct sufficient to disqualify him from receipt of unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as an assistant manager beginning on January 22, 2016 through March 20, 2019, when he was discharged.

The claimant was a key holder for the business. Claimant had been given a copy the employer's handbook and policies and knew that he was required to follow them. The policy specifically provides that a key holder may not give their keys to anyone who has not been designated as a key holder.

Part of Mr. Harper's responsibilities was to watch surveillance video of the store. On March 7 Mr. Harper watched surveillance of the store taken on March 3. While watching the video, Mr. Harper saw the claimant give his register key to Jeff. At the time the claimant knew that Jeff, who had previously been a key holder, was no longer a key holder. It was about 3:00 p.m. when the claimant gave his register key to Jeff. Both Jeff and the claimant continued to work in the store until about 5:30 p.m. when the claimant left the store. Video surveillance, which was shown to claimant, shows him leaving the parking lot in his car. Claimant was absent from the store for about an hour. Key holders are not allowed to leave the store if there is not another key holder in the store to assume their responsibilities. Under the store policy giving a key to a non-key holder would result in a write up. However, also under the employer policy, giving a

key to a non-key holder then leaving the store is a dischargeable offense even on the first occurrence. Claimant was not treated any differently than any other employee.

Jeff did not know the claimant had left the building until he was shown the video by Mr. Harper after claimant as discharged. The claimant never told Jeff he was leaving the building and leaving him in charge.

When Mr. Harper discovered what had occurred he passed the information on to his supervisor who passed it on to corporate human resources. Corporate human resources made the decision to discharge as opposed to a written warning due to the claimant actually leaving the store.

### **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, 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).

The claimant knew that he was not allowed to give a non-key holder his register key. He also knew he was obligated to follow the employer's policies and procedures. The claimant deliberately chose to give his register key to a non-authorized person. He then chose to leave the store, despite knowing if he was the only key holder on the premises. Claimant did not have the authority to substitute in his judgment for what was acceptable in lieu of the employer's clear policy. Claimant's actions, even though one time occurrence, were sufficient job connected misconduct to disqualify him from receipt of unemployment insurance benefits. Benefits are denied.

**DECISION:**

The April 3, 2019, (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.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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