

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LYNDA J LUNA**  
Claimant

**APPEAL NO. 10A-UI-05831-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MIKE'S IGA**  
Employer

**Original Claim: 03/14/10  
Claimant: Respondent (2)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed a representative's April 13, 2010 decision (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for non-disqualifying reasons. A telephone hearing was held on May 24, 2010. The claimant participated in the hearing. Tim Coyle, the store manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the employer discharge the claimant for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer on January 7, 2010, as a full-time cashier and stock clerk.

On January 31 and February 14, 2010, the claimant had been scheduled to work 4:00 to 10:00 p.m. She did not call or report to work either day. After she did not call or report to work on February 14, 2010, the employer warned her the next time there was a problem with her attendance, she would not have a job.

On March 7, the claimant went to work as scheduled. The manager on duty and the claimant did not get along. After the claimant asked about a price, the store manger embarrassed the claimant by telling her she was stupid in front a customer. The claimant was livid. The claimant called a long-time cashier and told her she had to leave or she did not know what she would do to the manager. The claimant was upset when she called the cashier. The claimant understood the cashier would let the employer know the claimant had called her. The claimant left at 7:45 p.m.

The claimant did not call Coyle on March 7 or attempt to talk to him on Monday. When she reported to work at her scheduled time on Tuesday, March 9, the employer informed her she no longer had a job because she left work early on March 7 without authorization.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5-2-a. For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good-faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant knew or should have known her job was in jeopardy after February 14, 2010, when she did not call or report to work as scheduled for the second time. If the manager on duty yelled at the claimant as she testified, it is strange that the claimant did not contact Coyle the next day to report the incident so the employer could address this problem immediately. The claimant also testified she left work because she so mad at the manager that she wanted to hit her. Although the claimant may have been angry, she knew that by leaving, the manager on duty was the only person left to work the cash register. The claimant's decision to leave work early on March 7 without authorization constitutes an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The employer discharged the claimant for work-connected misconduct. As of March 14, 2010, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's April 13, 2010 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of March 14, 2010. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw