

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SUSAN C GOERING-HARRIS
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DES MOINES IA 50315-5812

HY-VEE INC
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Appeal Number: 06A-UI-00836-CT
OC: 12/18/05 R: 02
Claimant: Respondent (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Hy-Vee, Inc. filed an appeal from a representative's decision dated January 11, 2006, reference 01, which held that no disqualification would be imposed regarding Susan Goering-Harris' separation from employment. After due notice was issued, a hearing was held by telephone on February 8, 2006. Ms. Goering-Harris participated personally and was represented by Joe Walsh, Attorney at Law. The employer participated by Kevin Mills, Store Director, and Greg Holliday, Assistant Manager. The employer was represented by David Williams of Talx UC Express.

The hearing was recessed to allow the exchange of a proposed exhibit. The parties have now agreed to stipulate that Ms. Goering-Harris was separated from employment for no disqualifying

reason. The parties further stipulated that benefits would be payable effective January 16, 2006. Based on the stipulations, there was no need to reconvene the hearing.

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. Goering-Harris was employed by Hy-Vee from March 20, 1990 until January 16, 2006. She was last employed full time as personnel manager. On December 9, 2005, the store director met with Ms. Goering-Harris and directed that she take her five weeks of accumulated vacation time. It was suggested she look for work elsewhere during this time.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Goering-Harris was separated from employment for any disqualifying reason. 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). The parties have stipulated that Ms. Goering-Harris' discharge was not due to misconduct as that term is defined by Iowa law. The parties have also stipulated that benefits would be payable after exhaustion of her five weeks of vacation. The five weeks of vacation would be used by the week ending January 14, 2006. Therefore, benefits are payable effective January 15, 2006.

DECISION:

The representative's decision dated January 11, 2006, reference 01, is hereby affirmed. Ms. Goering-Harris was separated from employment for no disqualifying reason. Benefits are allowed effective January 15, 2006, provided she satisfies all other conditions of eligibility.

cfc/s