

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

KRYSTAL A LITTLE

Claimant

APPEAL 14A-UI-02037-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING CO

Employer

OC: 01/26/14

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the February 14, 2014, (reference 01) unemployment insurance decision that denied benefits based upon a discharge from employment. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2014. Claimant participated. Employer participated through store manager, Pamela Everhart. Employer's Exhibit 1 (fax pages 2 – 13) was received.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a store employee (kitchen worker and cashier) and was separated from employment on January 23, 2014. The store is located at a truck stop. Companies give their drivers a cash advance on their paycheck through Casey's. She failed to handle cash advance checks properly on January 22, when she did not get proper authorization codes written on the checks and did not follow the full authorization process. There is a specific process that requires an employee to enter information through the Trendar machine to obtain authorization for fleet drivers to get a cash advance. Claimant entered the wrong authorization code and paid out the advance. Everhart discovered it the next day and spent an hour and a half correcting the problem so the employer was paid for the transactions. Everhard noticed when reviewing January 22, surveillance video that claimant was on her Kindle while working at the cash register and had not completed all of her job duties, which was also considered a reason for the separation. (Employer's Exhibit 1, p. 7)

On December 26, 2013 a non-truck driver wrote a \$40.00 check for \$30.00 of gas and \$10.00 cash. Claimant ran the check through the cash register as \$30.00 and gave the customer \$10.00 cash, leaving a \$10.00 error in the cash register receipts. She caught her mistake, took the check and receipt, and wrote down what happened to alert Everhart to fix it the next day when doing books. She wanted a training opportunity about what to do (post-void) but got a warning instead. (Employer's Exhibit 1, p. 8) On October 10, 2013, claimant used the Trendar

machine for one truck driver customer with three transactions for diesel fuel. She entered the total fuel price in the quantity space so it resulted in an overcharge to the customer of \$106.39. She was warned on October 16, 2013, about being inattentive. (Employer's Exhibit 1, p. 9)

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 § 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The Iowa Court of Appeals found substantial evidence of misconduct in testimony that the claimant worked slower than he was capable of working and would temporarily and briefly improve following oral reprimands. *Sellers v. Emp't Appeal Bd.*, 531 N.W.2d 645 (Iowa Ct. App. 1995). Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Co.*, 453 N.W.2d 230 (Iowa Ct. App. 1990). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984). When based on carelessness, the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. *Id.* Negligence does not constitute misconduct unless recurrent in nature; a single act is not disqualifying unless indicative of a deliberate disregard of the employer's interests. *Henry v. Iowa Dep't of Job Serv.*, 391 N.W.2d 731 (Iowa Ct. App. 1986).

The employer has presented substantial and credible evidence that claimant made errors due to inattention after having been warned. This is evidence of carelessness to such a degree of recurrence as to rise to the level of disqualifying job-related misconduct. Benefits are denied.

DECISION:

The February 14, 2014, (reference 01) decision is affirmed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/css