

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

NANCY A REYES
1716 CHRISTIE ST
DAVENPORT IA 52803

DOLGENCORP INC
DOLLAR GEN'L
C/O COMP TAX MGR
PO BOX 34150
LOUISVILLE KY 40232

Appeal Number: 05A-UI-04252-DWT
OC: 05/02/05 R: 04
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

STATEMENT OF THE CASE:

DolgenCorp, Inc. (employer) appealed a representative's April 14, 2005 decision (reference 02) that concluded Nancy A. Reyes (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 12, 2005. The claimant participated in the hearing. Shelly Stouffer, the manager, appeared 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 in 1999. The claimant worked as a part-time cashier. The employer's policy indicates an employee may be discharged if there is a \$50.00 or more cash discrepancy in the employee's cash register drawer at the end of the employee's shift.

On March 19, 2005, the claimant worked. At the end of her shift, the claimant's cash register drawer was \$50.00 short. When the employer reviewed the cash register tape, the employer discovered the claimant accidentally gave a customer change for \$100.00 instead of the \$50.00 the customer had paid for the items purchased.

Although this was the first time the claimant made a mistake, the employer's corporate office made decided to discharge the claimant on March 29, 2005. The employer discharged the claimant for failing to protect the employer's assets. The claimant reopened her claim for benefits during the week of March 27, 2005.

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. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

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 employer may have justifiable business reasons for discharging the claimant because her cash register drawer was \$50.00 short on March 19, 2005. The evidence does not, however, establish that the claimant intentionally disregarded the employer's interests. March 19 was the first time the claimant had made an unintentional mistake. The claimant did not commit work-connected misconduct. As of March 27, 2005, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's April 14, 2005 decision (reference 02) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected

misconduct. As of March 27, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

dlw/sc