

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAULA L MCNEVIN
Claimant

APPEAL NO: 07A-UI-07699-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SAINT AVENUE STOP
Employer

**OC: 07/01/07 R: 04
Claimant: Appellant (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Paula L. McNevin (claimant) appealed a representative's August 3, 2007 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Saint Avenue Stop (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 27, 2007. The claimant responded to the hearing notice, but was not available for the hearing. The claimant did not respond to the message left on her answering machine. Paul Von Tersch, the owner, 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 April 12, 2007. The claimant worked as a part-time sales clerk and cook. When the claimant started working, the employer explained the procedure involved when a customer paid by check or if someone drove off without paying for gas.

During her employment, the employer noticed the claimant had problems counting. There were several times the claimant's cash register drawer was off at the end of the night. Sometimes, the claimant made a counting error and other times she was either long or short. The claimant's drawer had been off as of much as \$90.00.

On July 3, the employer talked to the clamant about her cash register drawer being short \$20.86 on June 30, 2007. When the employer asked the claimant if she needed more training, the claimant indicated she did not need any additional training. The employer also talked to the claimant about leaving the hot dog warmer on overnight and leaving sandwiches on the counter overnight. When asked why this had occurred, the claimant told the employer she forgot.

The claimant also failed to recognize she had a drive-off during a shift. The cash register indicates when a customer has not paid for gas. When this happens, the employee on duty is supposed to contact the local sheriff's office with a description of the person and vehicle involved. When the claimant left at the end of her shift, she did not notice the cash register indicated there had been some gas that had not been paid for. The next person on duty had to take care of this drive-off.

On July 3, the claimant accepted a check from a customer. The claimant did not follow the employer's check procedure by verifying the customer's phone number, address and name. This customer had not even signed the check. Again the claimant told the employer she forgot about the employer's check policy. As a result of the claimant's repeated policy violations, the employer discharged her on July 5, 2007.

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 section 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 facts establish the claimant was so forgetful she was negligent to the point that she committed work-connected misconduct with her repeated failure to follow the employer's rules and procedures. The employer discharged the claimant for work-connected misconduct. As of July 1, 2007, the claimant is not qualified to receive unemployment insurance benefits.

DECISION:

The representative's August 3, 2007 decision (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is

disqualified from receiving unemployment insurance benefits as of July 1, 2007. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs