

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

**SALLY A WEST
628 W 64TH ST
DAVENPORT IA 52806-1930**

APPEAL NO. 09A-UI-17676-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**KRAFT PIZZA CO
c/o TALX UCM SERVICES
PO BOX 283
ST LOUIS MO 63166-0283**

APPEAL RIGHTS:

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:

***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.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

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.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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SALLY A WEST
Claimant

APPEAL NO. 09A-UI-17676-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KRAFT PIZZA CO
Employer

**Original Claim: 02/15/09
Claimant: Respondent (1)**

Section 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Kraft Pizza Company (Kraft) filed an appeal from a representative's decision dated November 13, 2009, reference 01, which held that no disqualification would be imposed regarding Sally West's separation from employment. After due notice was issued, a hearing was held by telephone on January 5, 2010. Ms. West participated personally. The employer participated by Julie Stokes, Associate Human Resources Manager. Exhibits One, Two, and Three were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. West was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. West was employed by Kraft from May 25, 1990 until October 28, 2009. She was last employed full-time in quality assurance. She was discharged based on allegations that she falsified a document and was dishonest with her supervisor.

One of the documents Ms. West was required to complete during her shift was the "load check out sheet" where she would indicate the times various checks were conducted. On October 21, 2009, she wrote the time and her initials in the area labeled "1st break" in the section under "box identification & approval." When she later realized she had not, in fact, conducted the label check, she re-did the form and omitted the incorrect entry. All other information on the original form was transferred to the new form and the original form was destroyed. She did not check with a supervisor before re-doing the form. The form she re-did was the one she submitted at the end of her shift. The supervisor had already obtained a copy of the original form earlier in the day because of problems with the line.

On October 22, the supervisor questioned Ms. West as to whether the label check had been done on October 21 and she indicated it had not. Because she did not submit her original paperwork and did not have a supervisor's permission to re-do the form, the decision was made

to discharge Ms. West. The employer also felt she had been dishonest with her supervisor when initially questioned about the matter.

REASONING AND CONCLUSIONS OF LAW:

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). Part of the reason for Ms. West's discharge was the allegation that she falsified paperwork. The employer did not contend that the paperwork she submitted at the end of her shift on October 21 contained false information.

Ms. West does not dispute the fact that the original form she completed did contain false information. However, she caught her error and corrected the paperwork before submitting it as her "official" form. She testified that paperwork is routinely redone if, for one reason or another, the original is not legible. The employer did not present evidence of any departmental policy that required Ms. West to attach her original form to the corrected form before submission. Nor was there evidence of a policy that required her to have supervisory approval before re-doing a form. For the above reasons, the administrative law judge cannot conclude that Ms. West committed misconduct by not attaching her original form to the corrected one or by not notifying a supervisor of her intentions.

The other reason for Ms. West's discharge was the fact that the employer felt she was dishonest when her supervisor initially questioned her about the form. The supervisor did not participate in the hearing to be subject to examination and cross-examination. Ms. West was credible in her testimony that the supervisor did not question her regarding the two forms, only whether the label check was conducted. On the evidence presented, the administrative law judge cannot conclude that Ms. West was dishonest with her supervisor.

After considering all of the evidence and the contentions of the parties, the administrative law judge concludes that disqualifying misconduct has not been established. While the employer may have had good cause to discharge Ms. West, conduct that might warrant a discharge from employment will not necessarily support a disqualification from job insurance benefits. Budding v. Iowa Department of Job Service, 337 N.W.2d 219 (Iowa App. 1983). For the reasons stated herein, benefits are allowed.

DECISION:

The representative's decision dated November 13, 2009, reference 01, is hereby affirmed. Benefits are allowed, provided she is otherwise eligible.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw