

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JESSICA PAREDES
Claimant

APPEAL NO. 11A-UI-12633-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 08/21/11
Claimant: Respondent (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Casey's Marketing Company filed a timely appeal from a representative's decision dated September 14, 2011, reference 01, which held the claimant eligible to receive unemployment insurance benefits. After due notice, a telephone hearing was held on October 19, 2011. Claimant participated personally. The employer participated by Ms. Sandy Hawkins, District Supervisor.

ISSUE:

The issue in this matter is whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in the record, finds: Jessica Paredes was employed by Casey's Marketing Company from May 11, 2007 until August 23, 2011 when she was discharged from employment. Ms. Paredes held the position of full-time assistant manager trainee at the time of job separation.

The claimant was discharged because of a cash shortage in a bank deposit that had been prepared by the store's manager. Ms. Paredes had assisted the manager but was not aware of the dollar amount contained in the deposit bag. The claimant as a trainee was unfamiliar with the process and was following the directives given to her by the store manager. After the bank had indicated that there was a cash shortage, Ms. Paredes returned to the store and allowed an hourly employee to help her count the funds to try to determine why a shortage had occurred. The claimant was unaware that company policy prohibited her from allowing an hourly individual to assist her in this task.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes misconduct sufficient to warrant the denial of unemployment insurance benefits. It does not.

Iowa Code section 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 employer has the burden of proof in this matter. See Iowa Code section 96.6.2. Misconduct must be substantial in order to justify a denial of unemployment insurance benefits. Misconduct serious enough to warrant the discharge of an employee may not necessarily be serious enough to warrant the denial of unemployment insurance benefits. See Lee v. Employment Appeal Board, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional or culpable acts by the employee. See Gimbel v. Employment Appeal Board, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

Based upon carelessness the carelessness must actually indicate a "wrongful intent" to be disqualifying in nature. Newman v. Iowa Department of Job Service, 351 N.W.2d 806 (Iowa App. 1984). Poor work performance is not misconduct in the absence of evidence of intent. Miller v. Employment Appeal Board, 423 N.W.2d 211 (Iowa 1988).

An employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy but if it fails to meet its burden of proof to establish job-related

misconduct as the reason for the separation the employer incurs potential liability for unemployment insurance benefits related to that separation.

Inasmuch as the evidence in the record establishes that Ms. Paredes was a new assistant manager in training and was not familiar with the bank deposit requirements or procedures, the administrative law judge concludes claimant's discharge from employment was nondisqualifying. The claimant had reasonably relied upon information given to her by the store manager that the deposit was complete and the subsequent use of an hourly employee to assist her in recounting the bank deposit was not in willful disregard of a known company rule or policy.

While the decision to terminate Ms. Parades may have been a sound decision from a management viewpoint, for the above-stated reasons the administrative law judge concludes that intentional disqualifying misconduct sufficient to warrant the denial of unemployment insurance benefits has not been shown. Benefits are allowed if the claimant is otherwise eligible.

DECISION:

The representative's decision dated September 14, 2011, reference 01, is affirmed. The claimant was discharged for no disqualifying reason. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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