

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACI J SMITH
Claimant

APPEAL NO. 12A-UI-10241-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING CO
Employer

OC: 07-22-12
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 13, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 18, 2012. The claimant did participate. The employer did participate through Tonya McNickel, Area Supervisor. Employer's Exhibit One was entered and received into the record.

ISSUE:

Was the claimant discharged due to job-connected misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a store manager full time beginning September 8, 2008 through July 16, 2012 when she was discharged. The claimant was first warned back in February 2009 when she wrote at least five bad checks at two different Casey's Store. She was specifically told at that time that she was no longer allowed to write any checks at Casey's stores. She specifically wrote on the warning she was given that she would only use her debit card from that point on. Less than six months later the claimant again wrote a bad check to Casey's and was given a final written warning telling her that she was not allowed to write any checks to Casey's ever. The claimant again wrote on the final written warning "I will not write any more checks to Casey's. I am going to use my ATM/Debit Card only." On July 10 the claimant wrote another check to Casey's for \$80.00. She had been told specifically that she was never allowed to write checks to Casey's, even if the check was good. Because the claimant violated her final written warning she was discharged.

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.

Generally, continued refusal to follow reasonable instructions constitutes misconduct. *Gilliam v. Atlantic Bottling Company*, 453 N.W.2d 230 (Iowa App. 1990). The claimant was specifically told on more than one occasion that she was not allowed to ever write checks at a Casey's store. The claimant wrote specifically that she would never write another check to a Casey's store yet did so anyway. The employer is not required to act as a bank for employees. The claimant's repeated failure to follow the explicit instruction that she not write checks to the store after having been warned 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 August 13, 2012 (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.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css