

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JUSTIN C HANSHAW**  
Claimant

**APPEAL NO: 11A-UI-06074-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SUBWAY**  
Employer

**OC: 03/27/11**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's April 26, 2011 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for nondisqualifying reasons. The claimant did not respond to the hearing notice, or participate in the hearing. Jeremy Jalas, the owner, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in August 2009. He worked as a part-time clerk. The employer considered the claimant a good employee and made him a shift leader. Prior to the last few months of his employment, the claimant followed the employer's policy about cashing in on a register at the beginning and end of his shift.

During the last months of the claimant's employment, the employer had inventory control problems with its supplies and cash control problems. As a result of these problems, the employer required all employees to count the money in the cash register at the beginning and end of each shift and to do inventory.

When the claimant was not cashing in at the beginning and end of his shift and failed to do inventory count, the employer gave him a written warning on October 25, 2010. This warning told the claimant that if there was one more time he did not cash in on his cash register or do product inventory, he would be discharged. From October 25 through November 15, 2010, or the last 15 shifts he worked, the claimant did not follow the employer procedure's by cashing in at the beginning and end of his shift and he did not inventory the major ingredients.

The employer's manager knew the next day, the claimant had not followed the cash in procedure for his last 15 shifts. The employer did not discharge him until November 16 because

the employer had a shortage of employees and could not operate the business if he was discharged right away. The last 15 shifts the claimant worked, he did not follow the employer's cash in procedure when he worked.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 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 claimant's failure to follow the employer's cash in procedure after he had been warned in late October 2010 amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. Based on the evidence presented during the hearing, the claimant committed work-connected misconduct. As of March 27, 2011, the claimant is not qualified to receive benefits.

An issue of overpayment or whether the claimant is eligible for a waiver of any overpayment will be remanded to the Claims Section to determine.

**DECISION:**

The representative's April 26 2011 determination (reference 02) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of March 27, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. An issue of overpayment or whether the claimant is eligible for a waiver any overpayment is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs