

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

**AMANDA J BINGHAM**  
Claimant

**CASEY'S MARKETING COMPANY**  
Employer

**APPEAL 23A-UI-04649-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/19/23  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

Amanda J. Bingham, the claimant/appellant,<sup>1</sup> filed an appeal from the Iowa Workforce Development (IWD) April 25, 2023 (reference 02) unemployment insurance (UI) decision. The decision denied Ms. Bingham REGULAR (state) UI benefits because IWD concluded that the employer discharged her from work on March 23, 2023 for violation of a known company rule. The Iowa Department of Inspections and Appeals UI Appeals Bureau mailed notices of hearing to Ms. Bingham and the employer. The undersigned administrative law judge held a telephone hearing on May 23, 2023. Ms. Bingham participated personally. The employer did not participate in the hearing.

**ISSUE:**

Did the employer discharge Ms. Bingham from employment for disqualifying, job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Bingham began working for the employer on August 19, 2019. She worked as a full-time store manager at the employer's Essex, Iowa location.. Her employment ended on March 23, 2023.

On Sunday, March 12, 2023, employees at the store Ms. Bingham managed contacted her because an employee had put a plastic pan in the oven and the plastics had melted inside the oven. The employees also contacted the first assistant manager about the same incident and the first assistant manager also contacted Ms. Bingham. Ms. Bingham told the first assistant manager that she would go to the store and the first assistant manager said they would meet Ms. Bingham at the store to talk about a personal matter.

When Ms. Bingham arrived at the store, the first assistant manager was already there. Ms. Bingham dealt with the kitchen incident and talked with the first assistant manager. The first assistant manager did not clock in and did not work. At some point, the first assistant manager took two shots of alcohol in the store. Ms. Bingham told the first assistant manager that they

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<sup>1</sup> Claimant is the person who filed the UI claim with IWD. Appellant is the person or employer who filed the appeal.

should not have done that and asked the first assistant manager to leave. Eventually, the first assistant manager did leave. The following Wednesday, March 15, the district manager came to the store and talked with Ms. Bingham about the events of March 12.

The employer opened an investigation about the incident related to the first assistant manager. At some point, the district manager and a human resources staff person asked Ms. Bingham to change the first assistant manager's timecard to show the first assistant manager as clocked in on March 12. Ms. Bingham stated that she did not feel comfortable doing this since she did not consider the first assistant manager to have been working on March 12. The employer initially decided to give the first assistant manager a write-up for the March 12 incident. The employer later told Ms. Bingham to hold off on the write-up. Ms. Bingham did so.

On March 23, the district manager and the regional manager came to the store and met with Ms. Bingham and the first assistant manager. The employer terminated the first assistant manager's employment in the presence of Ms. Bingham because of the March 12 incident. After leaving the room and getting the employer's keys and other items from the first assistant manager, the district manager and the regional manager came back to the room and told Ms. Bingham that her job was over too. The employer did not give Ms. Bingham a reason for why the employer terminated her employment. Ms. Bingham was in shock and did not ask for a reason. Ms. Bingham packed her things and left. Ms. Bingham had no prior disciplinary record with this employer.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the undersigned concludes the employer discharged Ms. Bingham from employment for a reason that does not disqualify her from receiving UI benefits.

Iowa Code section 96.5(2)(a) and (d) provide:

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.

d. For the purposes of this subsection, "misconduct" means a deliberate act or omission by an employee that constitutes a material breach of the duties and obligations arising out of such the employee's contract of employment. Misconduct is 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.

The employer has the burden of proof in establishing disqualifying job misconduct.<sup>2</sup> The issue is not whether the employer made a correct decision in separating the claimant from employment, but whether the claimant is entitled to unemployment insurance benefits.<sup>3</sup> Misconduct must be “substantial” to warrant a denial of job insurance benefits.<sup>4</sup>

In an at-will employment environment 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, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee’s act is misconduct does not rest solely on the interpretation or application of the employer’s policy or rule. A violation of the employer’s policy or rule is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

In this case, the employer did not participate in the hearing and provided no evidence of misconduct on the part of Ms. Bingham. Ms. Bingham denied that she violated any of the employer’s rules. Since the employer has not established disqualifying job-related misconduct, benefits are allowed.

**DECISION:**

The April 25, 2023 (reference 02) UI decision is REVERSED. The employer discharged Ms. Bingham from employment for a reason that does not disqualify her from receiving UI benefits. Benefits are allowed, as long as no other decision denies her UI benefits. IWD must pay Ms. Bingham any UI benefits she claimed and IWD withheld on this basis.



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Daniel Zeno  
Administrative Law Judge

May 24, 2023  
Decision Dated and Mailed

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<sup>2</sup> *Cosper v. Iowa Dep’t of Job Serv.*, 321 N.W.2d 6 (Iowa 1982).

<sup>3</sup> *Infante v. Iowa Dep’t of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984).

<sup>4</sup> *Newman v. Iowa Dep’t of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

**1. Appeal to the Employment Appeal Board** within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

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:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

**2.** If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or 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.

**Note to Claimant:** It is important that you file your weekly 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.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

**1. Apelar a la Junta de Apelaciones de Empleo** dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
Fax: (515)281-7191  
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

**2.** Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.