

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PEGGY L BURNS**

Claimant

**APPEAL NO. 08A-UI-03616-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**

Employer

**OC: 03/09/08 R: 04  
Claimant: Respondent (1)**

Section 96.5-2-a – Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated April 2, 2008, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on April 29, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing. Michelle Carey participated in the hearing on behalf of the employer.

**ISSUE:**

Was the claimant discharged for work-connected misconduct?

**FINDINGS OF FACT:**

The claimant worked full time for the employer from October 5, 2004, to March 10, 2008. The employer promoted her to the position of store manager in January 2007. The claimant was informed and understood that under the employer's work rules, employees were required to sign in on a timesheet when they reported to work and sign out when they left work. The claimant had informed her employees that they were required to sign in before performing any work to make sure their hours were accurate.

The area manager discovered an employee in the claimant's store had made a pizza before signing in on the timesheet. She told the claimant that she needed to make sure her employees were signing in before they started to work. The claimant was not working in the store on that day. On March 4, 2008, the area manager noticed that an employee who was scheduled to work on 10:00 a.m. had arrived at the store about 9:45 a.m. The employee walked into the kitchen and turned on the oven and fryer. The area manager asked the employee if she had signed into work yet. The employee admitted that she had not signed in. The area manager held the claimant responsible for this because she believed the claimant was not enforcing the sign-in policy, which was not the case. She reported the matter to the human resources department.

The employer discharged the claimant on March 10, 2008, for allowing employees to work off the clock.

## REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law.

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 to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

No willful and substantial misconduct has been proven in this case. The claimant did not direct, encourage, or knowingly allow employees to work off the clock.

**DECISION:**

The unemployment insurance decision dated April 2, 2008, reference 01, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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