

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**SPRING N TAYLOR**

Claimant

**APPEAL NO. 11O-UI-01231-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CENTRAL IOWA KFC INC**

Employer

**OC: 09-12-10**

**Claimant: Respondent (2R)**

Iowa Code § 96.5(2)a – Discharge/Misconduct  
Iowa Code § 96.3(7) - Recovery of Benefit Overpayment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 4, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on November 17, 2010. The claimant did participate. The employer did participate through Julie Mangold, Area Coach. The claimant appealed the administrative law judge decision to the Employment Appeal Board who

**ISSUES:**

Was the claimant discharged due to job-related misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The findings of fact set out in 10A-UI-13890-H2T are adopted as if set out herein. Additionally, the claimant pled guilty to second degree theft and was sentenced on January 28, 2011. She is required to make restitution to the employer in the amount of \$1,004.52 and to pay a civil penalty of \$625.00. The claimant admitted her conduct in open court. Additionally, when the employer discovered the theft in early August, they were not sure who committed the theft and did not want to unjustly accuse any employee. At the time the employer discovered that someone was pushing through declined credit card purchases, they posted a notice, which the claimant saw telling employees that if anyone's credit card was declined, they were not to override the system and push the transaction through as the employer was not able to collect the money from the credit card company if the card was declined. The employer turned all of the information over to the Knoxville police department who conducted the investigation. After the police determined on September 8 that it was the claimant who was the thief, only then did the employer have the requisite information to make a decision about the claimant's continued employment. The employer did not unduly delay in the claimant's discharge; they waited for the police investigation, which they had no control over, to be completed so that they would not punish the wrong employee. The claimant was discharged two days after her arrest on

September 11, 2010. When the claimant was arrested, she was in possession of the credit card used to make the fraudulent transactions at the employer's place of business.

**REASONING AND CONCLUSIONS OF LAW:**

The reasoning and conclusion of law set out in appeal number 10A-UI-13890-H2T are adopted as if set out herein. The employer acted within two days of learning who the guilty employee was. The claimant was discharged for a current act of misconduct. An employer is not obligated to tell employees not to steal from them. Any employee knows, or should know that stealing from the employer is conduct that could lead to their discharge. The claimant was discharged for substantial misconduct. Benefits are denied.

**DECISION:**

The October 4, 2010 (reference 01) decision is reversed. 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.

**REMAND:** The matter of determining the amount of the potential overpayment and whether the overpayment should be recovered under Iowa Code § 96.3(7)b is remanded to the Agency.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

tkh/css