

**BOARD OF REVIEW**  
**OKLAHOMA EMPLOYMENT SECURITY COMMISSION**  
**P.O. BOX 53345**  
**OKLAHOMA CITY, OK 73152**

Docket No. **18-AT-04867-BR**

In Re: Claim of:

**CLAIMANT**

**APPELLANT**

Date of Appeal to Board: **APRIL 23, 2018**

**OPINION**

The BOARD OF REVIEW considered the findings and decision of the Appeal Tribunal Hearing Officer, \_\_\_\_\_, reversing the Commission's determination by finding the claimant was discharged from his last employment but not for misconduct connected with the work and allowing benefits in accordance with Section 2-406, Title 40, Okla. Stat., as amended. This matter is submitted on the recording of the hearing held before the Appeal Tribunal, the Appeal Tribunal decision, and the records in the offices of the Oklahoma Employment Security Commission, the Appeal Tribunal, and the Board of Review pertaining to this appeal.

The claimant was discharged for allowing staff to use his manager's register card to do voids/deletes on the drive-through register. The claimant testified he was aware this was against company policy but that it was "common practice" within the store. The employer noticed an inordinate amount of money being lost and conducted an investigation, at which time the claimant's policy violation was discovered. He was issued a written warning, after which he stopped allowing staff to use his card. However, the employer terminated him a few days later after deciding his actions warranted such an action.

The Appeal Tribunal decision stated that since the claimant did not violate the policy after having been warned about it, the subsequent decision to terminate him for the same infraction that caused the warning is not considered to be due to misconduct connected to the work. As the Board of Review has previously stated, it can find no statute, policy or precedent case that says that (Docket No. 18-AT-02798-BR). The claimant knowingly violated the employer's policy. The statement that others in the store also violated the policy does not absolve the claimant of his responsibility to adhere to the employer's requirement of not giving access to his card. By statute, the claimant's violation of a policy enacted to ensure orderly and proper job performance does constitute misconduct. The statute does not even require a warning at all as long as the claimant knew or should have known that the policy was being violated. The Board finds that the claimant was discharged for misconduct connected to the work.

IT IS THEREFORE ORDERED BY THE BOARD OF REVIEW that the decision of the Appeal Tribunal is hereby REVERSED. The claimant is disqualified from receiving benefits effective week ending February 24, 2018, and indefinitely until he becomes re-employed and earns wages equal to or in excess of ten times his weekly benefit amount.