

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RONALD D SMITH
Claimant

APPEAL 17A-UI-07947-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 07/09/17
Claimant: Appellant (2)

Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 7, 2017 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was discharged for engaging in conduct not in the best interest of his employer. The parties were properly notified of the hearing. A telephone hearing was held on August 23, 2017. The claimant, Ronald D. Smith, participated. The employer, Wal-Mart Stores, Inc., participated through Ryan Oshel, Store Manager.

ISSUE:

Was the claimant discharged for disqualifying job-related misconduct?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a lube technician, from May 26, 2016 until July 11, 2017, when he was discharged for an inability to perform his job. The final incident triggering the discharge occurred during the first week of July 2017. That week, a customer came in and the customer's drain plug and oil pan had to be replaced, as the customer's drain plug was over-tightened. Oshel believes claimant was responsible for over-tightening the drain plug because he was listed as the lower bay technician for the customer's February 2017 oil change. There is no indication whether the customer had anyone else work on the vehicle between the February oil change and the July drain plug and oil pan replacement.

Claimant received a warning in 2016 for over-tightening a drain plug. Claimant knew immediately that he had over-tightened the plug, and he addressed it with the employer immediately. Claimant had also received warnings for squealing a customer's tires, for breaking the housing unit on a Kia Sedona, and for over-inflating a tire. Oshel believes that if claimant took more time in doing his job, he would not have made these errors.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.

Iowa Code § 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.

Iowa Admin. Code r. 871-24.32(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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Iowa Admin. Code r. 871-24.32(4) provides:

(4) Report required. The claimant's statement and the employer's statement must give detailed facts as to the specific reason for the claimant's discharge. Allegations of misconduct or dishonesty without additional evidence shall not be sufficient to result in disqualification. If the employer is unwilling to furnish available evidence to corroborate the allegation, misconduct cannot be established.

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. Here, the employer has not proven that the over-tightened drain plug is fairly attributed to claimant. The customer had last brought its vehicle in for service in February 2017. The customer could have attempted a home oil change or taken the car to another body shop in the months between February and July. The employer has not met its burden of proving claimant engaged in disqualifying, job-related misconduct. Benefits are allowed, provided he is otherwise eligible.

DECISION:

The August 3, 2017 (reference 01) unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis shall be paid.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/rvs