

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARON K SINGBEIL

Claimant

APPEAL NO. 07A-UI-04158-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 04-01-07 R: 01
Claimant: Respondent (2)**

Section 96.5-2-a – Discharge
Section 96.3-7 – Recovery of Overpayments

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed a timely appeal from an unemployment insurance decision dated April 13, 2007, reference 01, that allowed benefits to Karon K. Singbeil. After due notice was issued, a telephone hearing was held May 8, 2007 with Assistant Manager Lisa Dutton participating for the employer. Employer Exhibit One was also admitted into evidence. The claimant did not provide a telephone number at which she could be contacted.

ISSUE:

Was the claimant discharged for misconduct in connection with her employment?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Karon K. Singbeil was a maintenance associate for Wal-Mart Stores, Inc. from June 8, 2006 until she was discharged February 17, 2007. The incident leading to her discharge occurred on February 16, 2007. After a confrontation with one of her associates, Ms. Singbeil stated in the presence of Assistant Manager Lisa Dutton that she would “hurt” the co-worker. When told that would be inappropriate on company property, Ms. Singbeil responded that she would do so away from work. When Ms. Dutton said that that, too, would be inappropriate, Ms. Singbeil stated that she would have someone else do it.

Wal-Mart has a policy which prohibits violence and threats of violence against co-workers and customers. Ms. Singbeil had learned of the policy while in orientation. Consequences for violating the policy include discharge.

Ms. Singbeil has received unemployment insurance benefits since filing a claim effective April 1, 2007.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her employment. It does.

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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. Huntoon v. Iowa Department of Job Service, 275 N.W.2d 445, 448 (Iowa 1979).

An employer has the right to expect a workplace free from violence and threats of violence. The claimant's behavior was both a direct violation of the specific policy and a violation of the employer's basic right. This is sufficient to establish misconduct. Benefits are withheld.

Ms. Singbeil has received unemployment insurance benefits to which she is not entitled. They must be recovered in accordance with the provisions of Iowa Code section 96.3-7.

DECISION:

The unemployment insurance decision dated April 13, 2007, reference 01, is reversed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. She has been overpaid by \$169.00.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs