

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANA D EVANS**

Claimant

**APPEAL NO. 06A-UI-10953-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 10/08/06 R: 02  
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

**STATEMENT OF THE CASE:**

The employer appealed an unemployment insurance decision dated November 1, 2006, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on November 29, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Debbie Smith 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 as an unloader from November 2002 to July 19, 2006. The claimant was informed and understood that under the employer's work rules, employees were not allowed to leave work before the end of their shift without permission from their supervisor. The claimant had received discipline on December 12, 2005, for making negative comments to other employees and on February 9, 2006, for working inefficiently and leaving work before the end of her shift. When the claimant left work, she was ill and had permission from her supervisor to leave.

On July 19, 2006, the claimant and two other employees had completed their assigned work and approached their supervisor about leaving. They were told to finish unpacking a cart or pallet in the pet department before they left. They went back and unpacked a cart in the pet department and then punched out and left work. On July 21, 2006, the employer discharged the claimant for alleged insubordination in regard to her leaving work without checking back with her supervisor.

**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 findings of fact show how I resolved the disputed factual issues in this case by carefully assessing the credibility of the witnesses and the reliability of the evidence and by applying the proper standard and burden of proof. No willful or substantial misconduct has been proven in this case. The claimant followed her supervisor's instructions and unpacked a cart in the pet department before she left work. Her supervisor did not state that she had to check back before leaving work that day.

**DECISION:**

The unemployment insurance decision dated November 1, 2006, 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

saw/kjw