

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONICA R SPACE

Claimant

APPEAL NO. 06A-UI-11371-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 10/22/06 R: 12
Claimant: Respondent (1)**

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed a representative's November 17, 2006 decision (reference 01) that concluded Monica R. Space (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on December 12, 2006. The claimant participated in the hearing. Sarah Schneider, an assistant manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on August 9, 2000. The claimant worked as a full-time cashier. Schneider was the claimant's supervisor.

During the last year of the claimant's employment she received two written warnings for attendance. The claimant received one attendance warning on January 18, 2006 and another one on July 24, 2006. The claimant disputed the July 24 warning because the employer counted absences that occurred while the claimant was on a leave of absence for a work-related injury. The claimant asked Schneider to look into the disputed absences.

On October 6, the claimant was clocked in on register 15 while she covered for another employee. The claimant understood that when the employee came back, she was supposed to clock in on register 19. When the other employee returned, there was a long line. Instead of going to register 19, the claimant went to a closed register, opened it up and told customers standing in line that she could help them if they were not buying any tobacco products. The

claimant took care of three customers and noticed a long line of customers who wanted to buy tobacco products. The claimant then went to register 16 and checked out four to five customers. As soon as the customers had been taken care of, the claimant told another cashier she was going to clock in on register 19. At this same time, a customer service manager, D., yelled at the claimant for doing the job her way instead of the following the employer's directions. The claimant had not expected this kind of reaction because all she did was get customers checked out as quickly as possible. The claimant became very upset by the CSM's remarks. Customers in the area appeared to be shocked by the CSM's remarks.

The claimant immediately went to Schneider and reported the incident. The claimant was visibly upset and shaking when she talked to Schneider. Schneider reassured the claimant that she had done everything correctly and understood why she was upset. The claimant was so upset about this incident she told Schneider she had to leave work. The claimant understood she might receive a write-up for leaving early but she could not stay and work until the end of her shift. The claimant left work early and did not seek a manager's permission to leave early. Schneider did not warn the claimant that her job was in jeopardy if she left work without permission.

The claimant was scheduled to work the next day. On October 6, the claimant learned her babysitter was ill. The claimant tried to find another person to take care of her child when she worked on October 7, 2006. Just after midnight on October 7, the claimant called the employer to report she was unable to work as scheduled because of a childcare issue.

The claimant reported to work as scheduled on October 8. She worked about an hour before the employer told the claimant she no longer worked for the employer. The employer considered the claimant to have voluntarily quit her employment when she went home early on October 6, 2006.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. Even though the claimant left work early on October 6, she did not intend to quit. The employer initiated the employment separation and discharged the claimant on October 8, 2006. The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665 (Iowa 2000).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer discharged the claimant for business reasons. When the claimant left work early, on October 6, she did not substantially disregard the employer's interests because the employer knew she was leaving and did not attempt to resolve the problem between the claimant and the CSM. The claimant used poor judgment when she left while she was angry and emotionally distraught, but the claimant did not commit work-connected misconduct on October 6. Therefore, as of October 22, 2006, the claimant is qualified to receive unemployment insurance benefits.

DECISION:

The representative's November 17, 2006 decision (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of October 22, 2006, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account may be charged for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css