

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VESID KOVACEVIC
Claimant

APPEAL NO. 09A-UI-09255-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05/31/09
Claimant: Appellant (2)

Section 96.5-2-a – Discharge for Misconduct
871 IAC 24.32(7) – Excessive Unexcused Absenteeism

STATEMENT OF THE CASE:

The claimant appealed a department representative's decision dated June 26, 2009, reference 01, that held he was discharged for misconduct on June 1, 2009, and benefits are denied. A hearing was held on July 14, 2009. The claimant participated with Interpreter, Nina Radocaj. The employer did not participate.

ISSUE:

The issue is whether the claimant was discharged for misconduct.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness, and having considered the evidence in the record, finds that: The claimant worked as a full-time custodian from June 14, 2002 to June 1, 2009. The claimant was discharged due to attendance problems.

The employer did not call-in any number to participate for the hearing.

REASONING AND CONCLUSIONS OF 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(7) provides:

(7) Excessive unexcused absenteeism. Excessive unexcused absenteeism is an intentional disregard of the duty owed by the claimant to the employer and shall be considered misconduct except for illness or other reasonable grounds for which the employee was absent and that were properly reported to the employer.

The administrative law judge concludes that the employer failed to establish misconduct in the discharge of the claimant on June 1, 2009.

The employer failed to participate in this hearing and establish that the claimant missed work or was late work for inexcusable reasons or that he was warned on this issue.

DECISION:

The decision of the representative dated June 26, 2009, reference 01, is reversed. The claimant was not discharged for misconduct in connection with employment on June 1, 2009. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs