

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KIM L HUMBLER
1923 WESTERN DR SW
CEDAR RAPIDS IA 52404

WAL-MART STORES INC
% TALX UC EXPRESS
P O BOX 283
ST LOUIS MO 63166-0283

AMENDED

Appeal Number: 04A-UI-10224-CT
OC: 03/14/04 R: 03
Claimant: Respondent (2)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(2)a – Discharge for Misconduct
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated September 10, 2004, reference 03, which held that no disqualification would be imposed regarding Kim Humbler's separation from employment. After due notice was issued, a hearing was held by telephone on October 14, 2004. The employer participated by Nicholas Ferin, Loss Prevention Associate, and James Pearson, Assistant Manager. Exhibits One through Four were admitted on the employer's behalf. Ms. Humbler did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Humbles was employed by Wal-Mart from May 18 through August 20, 2004 as a full-time cashier. She was discharged for misuse of her employee discount. Employees are entitled to a 10 percent discount on personal purchases. An associate's child is entitled to a discount if the child is unmarried and under 19 years of age or the child is an unmarried, full-time student and under 23 years of age.

On August 20, 2004, Ms. Humbles allowed her daughter to use her employee discount card. The daughter is over age 23. The discount amounted to \$6.17. When questioned by the employer, Ms. Humbles indicated she allowed the usage because it was her daughter. She was discharged the same day. The above matter was the sole reason for the discharge.

Ms. Humbles has received \$1,491.00 in job insurance benefits since filing her additional claim effective August 22, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Humbles was separated from employment for any disqualifying reason. An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code section 96.5(2)a. The employer had the burden of proving disqualifying misconduct. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). Ms. Humbles was discharged for violation of a known company rule. She allowed an ineligible family member to use her employee discount card. Such conduct is contrary to the employer's standards as well as the employer's interests as it results in a loss of profits if ineligible individuals are allowed discounts. Ms. Humbles' disregard of the employer's work rule constituted disqualifying misconduct. Accordingly, benefits are denied.

Ms. Humbles has received benefits since filing her additional claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated September 10, 2004, reference 03, is hereby reversed. Ms. Humbles was discharged for misconduct in connection with her employment with Wal-Mart. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Humbles has been overpaid \$1,617.00 in job insurance benefits.

cfc/s/b