

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CYNTHIA L NOYER**

Claimant

**APPEAL NO: 13A-UI-05589-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 04/07/13**

**Claimant: Respondent (2/R)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's April 29, 2013 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account exempt from charge because the claimant's discharge was not based on a current act of work-connected misconduct. The claimant did not respond to the hearing notice or participate in the hearing. Michele Siebel, the assistant manager of the electronics department, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the employer discharge the claimant for a current act of work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in April 2006. She worked as a full-time associate.

The employer was reviewing video on March 24 because of cash shortages in the store. While reviewing video, the employees saw the claimant take \$100.00 from a cash register. The employer talked to the claimant on March 25, 2013, about the \$100.00 shortage. During the March 25 discussion, the claimant admitted she took \$100.00 from a cash register and had in the last two years also taken a \$296.00 television set and a couple of \$40.00 gift cards. The employer discharged the claimant on March 25, 2013, for theft.

The claimant established a claim for benefits during the week of April 7, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges her for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a.

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. 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 do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The claimant actions amount to an intentional and substantial disregard of the employer's interests. Since the employer discovered the theft of money on March 24 and discharged the claimant the next day, the employer discharged her for a current act of work-connected misconduct. As of April 7, 2013, the claimant is not qualified to receive benefits.

The issue of overpayment and whether the claimant is eligible for a waiver of any overpayment of benefits she may have received since April 7, 2013, will be remanded to the Claims Section to determine.

#### **DECISION:**

The representative's April 29, 2013 determination (reference 01) is reversed. The employer discharged the claimant for reasons constituting a current act of work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of April 7, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

The issue of overpayment or whether the claimant is eligible for a waiver of any overpayment of benefits since April 7, 2013, is **Remanded** to the Claims Section to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css