

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALLEN D YORK**  
Claimant

**APPEAL NO: 14-A-UI-02011-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 01/26/14  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a - Discharge

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's February 13, 2014 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he had been discharged for disqualifying reasons. The claimant participated at the March 13 hearing. The employer did not participate at the hearing. After the hearing had been held, the Appeals Bureau received a letter from the employer's representative, Equifax, stating the employer was not participating at the hearing. Based on the evidence, the claimant'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 reasons constituting work-connected misconduct?

**FINDINGS OF FACT:**

The claimant started working for the employer in September 2004. He worked full time assembling bikes. The employer's attendance policy indicates employees may be discharged if they accumulate seven attendance points.

During his employment, the employer talked to the claimant about reporting to work late. The employer kept telling the claimant he could not be late for work. In early or mid-December 2013, the employer gave the claimant a warning and told him that he had accumulated 15 attendance points. The employer again told the claimant that he had to stop reporting to work late.

On January 9 or 10, 2014, the claimant reported to work about 15 minutes late. He overslept when he did not hear his alarm clock. On January 11, the employer discharged him for excessive absenteeism, reporting to work late.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is not qualified to receive unemployment insurance benefits if an employer discharges him for reasons constituting work-connected misconduct. Iowa Code § 96.5(2)a. The law presumes excessive unexcused absenteeism is an intentional disregard of the claimant's duty to an employer and amounts to work-connected misconduct except for illness or other reasonable grounds for which the employee was absent and has properly reported to the employer. 871 IAC 24.32(7).

Even though the employer had not discharged him earlier for reporting to work late, in December 2013, the employer warned the claimant that he had to stop reporting to work late because he had twice as many attendance points then the employer allowed. The employer discharged the claimant when he was again late for work after he overslept on January 9 or 10. Since the claimant had on-going attendance problems by failing to report to work on time, the employer discharged him for reasons that amount to work-connected misconduct. As of January 26, 2014, the claimant is not qualified to receive benefits.

**DECISION:**

The representative's February 13, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons constituting work-connected misconduct. As of January 26, 2014, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css