

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREMY S LONDRIE**

Claimant

**APPEAL NO. 11A-UI-07428-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 04/17/11**

**Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Jeremy Londrie filed an appeal from a representative's decision dated May 25, 2011, reference 01, which denied benefits based on his separation from Wal-Mart Stores, Inc. After due notice was issued, a hearing was held by telephone on June 30, 2011. The employer participated by Diane Barton, Human Resources Manager. Exhibits One, Two, and Three were admitted on the employer's behalf. Mr. Londrie did not respond to the notice of hearing.

**ISSUE:**

At issue in this matter is whether Mr. Londrie was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Londrie was employed by Wal-Mart from May 15, 2009 until April 16, 2011. He was last employed full time in shipping as a loader. He was discharged because of his attendance. He was absent October 3 and 4 and November 6, 2010 for unknown reasons. He was over two hours late on November 17 and received a verbal warning on that date.

Mr. Londrie was over eight hours late on February 18, 2011 because of a sick family member. He was working 12-hour days at that point. On March 13, he missed over ten hours of work due to his own illness. He was given a written warning on March 13. Mr. Londrie was over eight hours late on March 19 because he was attending to personal business. He was absent due to illness on March 27 and was then given a "decision-making" day. The decision to discharge was based on the fact that he was six hours late on April 16. He did not call in advance to advise that he would be late. He was discharged the same day. Attendance was the sole reason for the discharge.

## REASONING AND CONCLUSIONS OF LAW:

An individual who was discharged from employment is disqualified from receiving job insurance benefits if the discharge was for misconduct. Iowa Code § 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). An individual who was discharged because of attendance is disqualified from benefits if he was excessively absent on an unexcused basis. In order for an absence to be excused, it must be for reasonable cause and must be properly reported. 871 IAC 24.32(7). The administrative law judge is not bound by an employer's designation of an absence as unexcused. Tardiness in reporting to work is considered a limited absence from work.

Mr. Londrie's tardiness of March 19, 2011 is unexcused. Absences due to matters of purely personal responsibility are not excused. See Higgins v. Iowa Department of Job Service, 350 N.W.2d 187 (Iowa 1984). Inasmuch as the absence was due to personal business, it is unexcused. The absence of April 16 is unexcused as it was not properly reported and the evidence of record does not establish any reasonable cause for it. The absences of October 3 and 4 and November 6, 2010 were for unknown reasons. Without knowing the reason for the absences, the administrative law judge cannot determine whether they should be excused or unexcused. Mr. Londrie's remaining absences were due to either his own illness or that of a family member. As such, they were for reasonable cause. The employer failed to establish to the satisfaction of the administrative law judge that the remaining absences were not properly reported.

The issue is whether Mr. Londrie's two unexcused absences of March 19 and April 16 are sufficient to establish excessive unexcused absenteeism. They occurred within a one-month period of time and after he had been warned about his attendance. This might be a different case if the final incident had only involved tardiness of a few minutes. However, it was by six hours. Given the degree of the tardiness and the number of warnings, it is concluded that the two unexcused absences are sufficient to establish excessive unexcused absenteeism within the meaning of the law. As such, benefits are denied.

## DECISION:

The representative's decision dated May 25, 2011, reference 01, is hereby affirmed. Mr. Londrie was discharged for misconduct in connection with his employment. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/pjs