

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**NATALIE A DIETRICH**  
Claimant

**APPEAL NO: 17A-UI-11319-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 10/08/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, filed a timely appeal from a representative's unemployment insurance decision dated October 30, 2017, reference 01, was denied unemployment insurance benefits finding that the claimant was discharged from work on October 13, 2017 for failure to follow the instructions in the performance of her job. After due notice was provided, a telephone conference hearing was held on November 22, 2017. Claimant participated. The employer participated by Ms. Natalie Oteri, Store Manager. Employer Exhibits A, B, and C were admitted into the hearing record.

**ISSUE:**

Whether the claimant was discharged for misconduct sufficient to warrant the denial of unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having considered all of the evidence in the record, finds that: Natalie Dietrich was employed by Wal-Mart Stores, Inc. from September 26, 2003 until October 13, 2017 when she was discharged from employment. Ms. Dietrich most recently worked as a full-time department manager in the stationary, fabrics and crafts department and was paid by the hour. Claimant's last immediate supervisors were Kevin (last name unknown) and Natalie Oteri was a co-manager at that time.

Ms. Dietrich was discharged on October 13, 2017 after the employer concluded that Ms. Dietrich had failed to properly change prices on sales items and note the changes in the company's computer recording keeping systems. Employees are expected to reduce the sale price items that are going to be on sale by inputting the change in the company's computer system and by also fixing a tag to the item that shows that the price has been reduced and the consumer is saving money. Failure to complete the price changing process results in inconsistency in the amount consumers are charged for items that often causes consumer dissatisfaction and complaints.

Ms. Dietrich had received initial training on the price changing procedures and had acknowledged that she had received the training by the employer. Prior to being discharged

from her employment, Ms. Dietrich had received three written warnings from employer for failing to follow proper price changing procedures, the last warning the claimant received warned her further violations could result in her termination from employment. Prior to being discharged, the claimant had not indicated to company management that she was having specific difficulty with her most recent price change assignment. Because the company was unaware that the claimant was having any specific difficulties, no additional help was sent to the claimant. The employer had assisted Ms. Dietrich in the past, upon her request.

It is the claimant's position that she had "rushed through" the price changing sequences as she was busy performing other duties for the company and short staffed. It is the claimant's belief that the company should have known that she was behind in her price changing and volunteered to assist the claimant even though she had not requested assistance.

### **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the evidence in the record establishes the claimant was discharged for misconduct sufficient the denial of unemployment insurance benefits, it does.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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 disqualification shall continue 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.

Iowa Admin. Code r. 871-24.32(1)a provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

In discharge cases, the employer has the burden of proof to establish disqualifying misconduct on the part of the claimant. See Iowa Code section 96.6(2). Misconduct must be substantial in order to justify a denial of unemployment benefits. Misconduct serious enough to warrant the discharge of an employee is not necessarily serious enough to warrant a denial of unemployment benefits. See *Lee v. Employment Appeal Board*, 616 N.W.2d 661 (Iowa 2000). The focus is on deliberate, intentional, or culpable acts by the employee. See *Gimbel v. Employment Appeal Board*, 489 N.W.2d 36, 39 (Iowa Ct. App. 1992).

In the case at hand, Ms. Dietrich demonstrated the ability to perform the price changing duties while employed by Wal-Mart Stores, Inc. The claimant was aware that it was necessary to not only enter the price change on the company's computer system but also to affix a tag to item stating its sales price to the consumer thus increasing the products chance of being sold, she was also aware that failure to complete all the aspects of the price changing requirements could result in customer dissatisfaction and complaints because the pricing would not match the advertised sale of items.

In this case, the claimant knew that she was falling behind in her price changing duties, but did not specifically inform company management or request additional help be given to her. The claimant instead only did some of the price changing. This lead to disputes and customer dissatisfaction when it appeared that the amount the customer was being charged for an item did not match advertised sale prices.

Although sympathetic to the claimant's situation, the administrative law judge concludes that the claimant knew or should have known that performing partial price changes was unacceptable to the company and could jeopardize her employment. The claimant also knew or should have known that a reasonable course of action would be to inform the employer the backlog and difficulties so the employer would have a reasonable opportunity to provide assistance to her. The claimant had been placed on notice in previous warnings of the employer's expectations and was aware that failure to follow employer expectations could lead to termination of employment.

For these reasons, the administrative law judge concludes that the employer has sustained its burden of proof in showing that the claimant discharge took place under disqualifying conditions. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the weekly benefits amount, and is otherwise eligible.

**DECISION:**

The representative's decision dated October 30, 2017, reference 01 is affirmed. Claimant was discharged for misconduct in connection with her work. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times the weekly benefits amount, and is otherwise eligible.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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