

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ELIZABETH A SMITH

Claimant

APPEAL NO. 10A-UI-05998-H

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

Original Claim: 03/21/10

Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Elizabeth Smith, filed an appeal from a decision dated April 13, 2010, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued, a hearing was held in Des Moines, Iowa, on May 26, 2010. The claimant participated on her own behalf. The employer, Wal-Mart, participated by Store Manager Jeremy Lyons and Asset Protection Coordinator Linda Kraber.

ISSUE:

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

FINDINGS OF FACT:

Elizabeth Smith was employed by Wal-Mart from November 17, 2005, until March 22, 2010, as a full-time assistant manager. Her job duties included managing the cash office. At the time of hire, she attended orientation, where the general policies on attendance, discipline, and benefits were covered. The people attending the orientation were told to check out the company's website, called "the wire," for the remainder of the rules and policies. The claimant never did this. At that time, there was in place a policy which stated that no checks were to be cashed by the accounting office unless you were a truck driver.

Throughout the years, the employer would periodically announce, via a posting on the bulletin board, new or updated policies from the corporate office. Employees were to access the wire and review those policies. The claimant never did this. Even though she was in charge of the accounting office and was responsible for running the office in accordance with the employer's policies, as well as training new employees, she never kept herself current. In fact, she never accessed the wire unless she or a subordinate had a specific question, which she would then research.

On March 5, 2010, Store Manager Jeremy Lyons was in the accounting office and noticed two personal checks in the cash drawer which had been written by Ms. Smith. These checks were written February 18 and March 1, 2010. He called Ms. Smith and questioned why these checks

were in the cash drawer and she said she thought they would have been sent to the bank by that time. He asked her if she had written them and she admitted that she had. Mr. Lyons referred the matter to an investigative team, who later interviewed Ms. Smith. At that time, she was aware she had violated the policy and could face disciplinary action up to and including discharge. The asset control coordinator who investigated reviewed the video surveillance of the cash office to determine what precisely had happened on the dates the checks were tendered. Clerks who worked in the office were also discharged for violation of the cash handling procedures along with Ms. Smith. The claimant was notified of the discharge on March 22, 2010, by Mr. Lyons.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5-2-a provides:

An individual shall be disqualified for benefits:

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 individual shall be disqualified for benefits 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.

871 IAC 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.

The administrative law judge does not doubt the claimant did know about the policy. However, it is obvious that she was told she would be obliged to review the wire to check for updated policies and did not do so. She was responsible for running the cash office and made no attempt whatsoever to educate herself about the policies and procedures governing her responsibilities in the cash office. This is also a problem in that she did not properly advise herself of these policies in order to train subordinates and make sure they were protecting the employer's assets as well. The claimant violated her duties and responsibilities to the employer by not keeping current with the necessary policies or training her personnel properly. This jeopardized the employer's cashflow and accounting procedures. This is a violation of the

duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interest of the employer. The claimant is disqualified.

DECISION:

The representative's decision of April 13, 2010, reference 01, is affirmed. Elizabeth Smith is a disqualified and benefits are withheld until she has re-qualified by earning ten times her weekly benefit amount, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw