

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERESA J SCHWASS
Claimant

APPEAL NO: 14A-UI-08381-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 07/13/14
Claimant: Appellant (1)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 5, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the September 3 hearing. The employer did not respond to the hearing notice or participate 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 April 2011. She worked full time. She was permanently scheduled to work on Friday, Saturday and Sunday.

The claimant worked for the employer and went to school to become a radiology technician. In 2014, the claimant's school classes and required clinicals conflicted with her work schedule. She asked the employer if she could work part time, but the employer needed a full-time employee. The claimant used as much vacation time that she could to cover her absence when her school schedule conflicted with her work schedule.

The claimant knew that if she received three written warnings for attendance issues, her next absence would result in her discharge. On July 11, the claimant received her second written warning for absenteeism. The claimant properly notified the employer she was unable to work on July 13 because she had to go to a clinical. The claimant was also absent on July 18 because of her school schedule. As a result of the July 13 absence, the employer could give the claimant her third written warning. The claimant knew when she had to be absent on July 18, the employer would discharge her for violating the employer's attendance policy. The employer discharged her for excessive absenteeism on July 19.

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 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).

The claimant had repeated absences because she was going to school at the same time she worked. Her classes conflicted with her work schedule. While I do not fault the claimant for going to her required clinicals, she knew or should have known this decision put her job in jeopardy. The claimant was absent for personal reasons, but the employer did not excuse her absences. By putting her schooling ahead of her job, she intentionally disregarded her duty to the employer. She committed work-connected misconduct by violating the employer's attendance policy. As of July 13, 2014, the claimant is not qualified to receive benefits.

DECISION:

The representative's August 5, 2014 determination (reference 01) is affirmed. The employer discharged the claimant for reasons that amount to work-connected misconduct. As of July 13, 2014, the claimant is disqualified from receiving unemployment insurance benefits. 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.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css