

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOSHUA C COATES**

Claimant

**APPEAL NO. 07A-UI-01960-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 01/21/07 R: 03  
Claimant: Respondent (2)**

Section 96.5(2)a – Discharge for Misconduct  
Section 96.3(7) – Recovery of Overpayments

**STATEMENT OF THE CASE:**

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated February 9, 2007, reference 01, which held that no disqualification would be imposed regarding Joshua Coates' separation from employment. After due notice was issued, a hearing was held by telephone on March 13, 2007. Mr. Coates participated personally. The employer participated by Jamie Cumberworth, Assistant Manager. Exhibits One through Six were admitted on the employer's behalf.

**ISSUE:**

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

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Coates was employed by Wal-Mart from July 1, 2003 until January 21, 2007. He was last employed full-time as a cart pusher. His discharge was prompted by the fact that he was insubordinate towards an assistant manager on January 21.

As Mr. Coates was entering the store on January 21, Jamie Cumberworth asked him to move carts from the back of the store to the front after he clocked in. Mr. Coates responded with, "why don't you do it yourself?" Approximately ten minutes later, Ms. Cumberworth paged him over the store's intercom to go to the grocery area. When he did not respond to the page, another page was made five to ten minutes after the first. Ms. Cumberworth waited for Mr. Coates to come to the grocery area as directed but he did not report. After waiting approximately another ten minutes, she pushed the carts herself. After he clocked in on January 21, Mr. Coates went outside to push carts.

Mr. Coates received a verbal warning on February 11, 2005 for standing in the aisle and not working on risers as directed. He received another verbal warning on February 15, 2006 because he was not following guidelines with respect to replenishing stock and scanning shelves that were out of merchandise. He received a written warning on March 11, 2006 for not

following through on assigned tasks. The last warning received by Mr. Coates before his discharge was on May 17, 2006. He was given a "decision-making day" because he had been observed taking unauthorized breaks and leaving his work area.

After his discharge, Mr. Coates filed a claim for job insurance benefits effective January 21, 2007. He has received a total of \$1,471.00 in benefits since filing his claim.

#### **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 section 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). The administrative law judge concludes that Mr. Coates' insubordination of January 21, 2007 is sufficient to establish disqualifying misconduct. He was given a reasonable directive by Ms. Cumberworth, an assistant manager, to bring carts to the front of the store after he clocked in. Rather than telling her that he would perform the task after he clocked in, he told her to do it herself. Moreover, he did not return to the area after clocking in to perform the task as requested even though he was aware she wanted the carts moved and it was his job as a cart pusher to move them.

Mr. Coates's refusal to move the carts, coupled with his statement to Ms. Cumberworth to perform the task herself, constituted a substantial disregard of the standards an employer has the right to expect. The employer had the right to expect employees to obey reasonable directions from a supervisor, especially from a member of management. The employer had the right to expect that the task would be performed or a reasonable explanation given as to why it could or would not be performed. For the reasons cited herein, the administrative law judge concludes that disqualifying misconduct has been established by the evidence. Accordingly, benefits are denied.

Mr. Coates has received benefits since filing his claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

#### **DECISION:**

The representative's decision dated February 9, 2007, reference 01, is hereby reversed. Mr. Coates was discharged for misconduct in connection with his employment. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility. Mr. Coates has been overpaid \$1,471.00 in job insurance benefits.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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