

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FREDERIC G HENDERSON**  
Claimant

**APPEAL NO. 09A-UI-06976-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**Original Claim: 04/05/09  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

Frederic Henderson filed an appeal from a representative's decision dated April 29, 2009, 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 2 and June 3, 2009. Mr. Henderson participated personally and offered additional testimony from Justin Schuck and Mike Lynch. The employer participated by Diane Johnson, Human Resources Manager, and Scott Marquess, General Manager.

**ISSUE:**

At issue in this matter is whether Mr. Henderson 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. Henderson was employed by Wal-Mart from 2000 until April 10, 2009. He was last employed full time as assistant marketing manager at Sam's Club. He was discharged from the employment after progressive discipline. He received a written warning on March 3, 2008 for breaching confidentiality. In July of 2008, he was placed on a 60-day improvement plan because of his job performance. He had a "decision-making" day on September 16, 2008. The next step in the disciplinary process is discharge.

Mr. Henderson and his assistant were in charge of an X-Box tournament sponsored by the store on or about April 4, 2009. Employees and their family members were prohibited from entering the contest. Mr. Henderson allowed his son to compete in the tournament even though it was clearly prohibited by the contest's written rules. There was also a "Polar Plunge" event being sponsored by another entity in Ames the same day. Individuals who donated \$50.00 to participate were entitled to a free t-shirt. Mr. Henderson received his t-shirt and then asked others to hold his shirt so that he could go back and get another one.

On April 7, Mr. Henderson reported for a morning meeting and advised coworkers that he had coupons he had received from a chamber of commerce event he attended. Some of the

coupons were for free or discounted items. The employer's policies prohibit employee from taking anything of value from other businesses. As a result of these final events in April, Mr. Henderson was discharged on April 10, 2009.

**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). Mr. Henderson was discharged for, in essence, conduct unbecoming a member of management. As a member of management, it was his responsibility to set the standards for those working under him. His conduct in allowing his son to participate in the X-Box tournament in violation of the tournament rules had the potential of the employer losing the opportunity to sponsor future similar events.

Mr. Henderson also acted in a manner that was contrary to the employer's expectations during the "Polar Plunge." He was there as a representative of Sam's Club and, as such, was expected to portray the employer as a good corporate citizen. His deceit in obtaining a second t-shirt was contrary to the image the employer had the right to expect management personnel to display to the public. Mr. Henderson placed his own interests before those of the employer both with respect to the X-Box tournament and the "Polar Plunge." For the above reasons, the administrative law judge concludes that disqualifying misconduct has been established and benefits are denied.

**DECISION:**

The representative's decision dated April 29, 2009, reference 01, is hereby affirmed. Mr. Henderson was discharged for misconduct in connection with his employment. Benefits are withheld 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/kjw