

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JODY A MCBETH
Claimant

APPEAL NO. 07A-UI-08512-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 02/04/07 R: 4
Claimant: Appellant (2)

Section 96.5(2)a – Discharge/Suspension

STATEMENT OF THE CASE:

The claimant, Jody McBeth, filed an appeal from a decision dated August 30, 2007, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on September 19, 2007. The claimant participated on his own behalf. The employer, Wal-Mart, did not provide a telephone number where a representative could be contacted and did not participate.

ISSUE:

The issue is whether the claimant was suspended for misconduct sufficient to warrant a denial of unemployment benefits.

FINDINGS OF FACT:

Jody McBeth began employment with Wal-Mart on July 22, 1998. His last day of work was July 26, 2007, as a full-time receiving processor. On July 29, 2007, Mr. McBeth was arrested and charged with domestic assault. Wal-Mart policy requires all employees to notify the employer immediately upon any arrest for any criminal conduct. Failure to notify the employer will result in immediate discharge.

Mr. McBeth spoke with Personnel Manager Diane Barton on the day after the arrest and she said he was suspended pending the outcome of his trial. He pled not guilty on August 19, 2007, and no trial date has been set.

REASONING AND CONCLUSIONS OF LAW:

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The claimant was suspended which, under the provisions of the above Administrative Code section, must be for job-related misconduct in order for unemployment benefits to be denied. There is no evidence the claimant's arrest for domestic assault was in any way connected with his work duties or the work place. The suspension was therefore not for job-related misconduct and disqualification may not be imposed.

DECISION:

The representative's decision of August 30, 2007, reference 01, is reversed. Jody McBeth is qualified for benefits provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

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