

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA E HARDWICK
Claimant

APPEAL NO. 09A-UI-01451-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 01/04/09 R: 02
Claimant: Appellant (1)

Section 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Christina E. Hardwick filed a timely appeal from an unemployment insurance decision dated January 27, 2009, reference 01, that disqualified her for benefits. After due notice was issued, a telephone hearing was held February 16, 2009. Ms Hardwick did not respond to the hearing notice and so did not participate in the hearing. Store Manager Brent Prunty participated for the employer, Wal-Mart Stores, Inc.

ISSUE:

Was the claimant discharged for misconduct in connection with her employment?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Christina E. Hardwick was employed by Wal-Mart Stores, Inc. from March 21, 2005, until she was discharged January 2, 2009. She last worked as the manager of the store's tire and lube department.

In mid-December, Ms. Hardwick gave an unauthorized discount to a friend. After the transaction showed up a few days later, management initiated an investigation. Ms. Hardwick was told that her job was in jeopardy depending upon the outcome of the investigation. After concluding that no one had authorized the discount, Ms. Hardwick was discharged. Discharge is the normal consequence of giving unauthorized discounts.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant was discharged for misconduct in connection with her employment. It does.

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 employer has established by a preponderance of the evidence that Ms. Hardwick was discharged for violation of a known company rule. It has also established that the claimant was properly put on notice that her job was in jeopardy when the employer began the investigation to determine if the discount had been authorized. By putting the claimant on notice, the employer has met the requirement of establishing a current act of misconduct as required in 871 IAC 24.32(8). Benefits are withheld.

DECISION:

The unemployment insurance decision dated January 27, 2009, reference 01, is affirmed. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw