

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TASHA M POULIN
Claimant

APPEAL NO: 13A-UI-06954-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05/19/13
Claimant: Appellant (2)

Iowa Code § 96.5(2)a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed June 7, 2013 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 in the hearing. The employer did not respond to the hearing notice or participate in the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is 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 September 2012. She worked full time unloading trucks. Before the employer hired her, the claimant informed the employer about her untreated sleep disorder. About a week before the claimant's employment separation, she received a written warning for attendance issues. The claimant had six absent occurrences and the majority of these occurrences were the result of her sleep disorder.

During a shift, employees are allowed two 15-minute paid breaks and an hour for lunch that is unpaid. On May 13 after the claimant took her 15-minute break she went to the restroom before she went back to her work station. After the claimant returned to her work station, the employer discharged her for taking a 30-minute break instead of a 15-minute break. The claimant denied she took a 30-minute break. Since the employer had warned the claimant before about her attendance, the employer told the claimant that she was done.

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 employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. *Cosper v. Iowa Department of Job*

Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. *Lee v. Employment Appeal Board*, 616 N.W.2d 661, 665 (Iowa 2000).

The law defines misconduct as:

1. A deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment.
2. A deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees. Or
3. An intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer.

Inefficiency, unsatisfactory conduct, unsatisfactory performance due to inability or incapacity, inadvertence or ordinary negligence in isolated incidents, or good faith errors in judgment or discretion do not amount to work-connected misconduct. 871 IAC 24.32(1)(a).

The employer may have had justifiable business reasons for discharging the claimant. The evidence does not establish that the claimant intentionally failed to work as scheduled. The evidence does not establish how long the claimant was gone on a break on May 17. She may have used poor judgment when she went to the restroom before she went back to her work station, but without any testimony from the employer the evidence does not establish that the claimant committed work-connected misconduct. Therefore, as of May 19, 2013, the claimant is qualified to receive benefits.

DECISION:

The representative's June 7, 2013 determination (reference 01) is reversed. The employer discharged the claimant for business reasons, but the evidence does not establish that the claimant committed work-connected misconduct. As of May 19, 2013, the claimant is qualified to receive benefits, provided she meets all other eligibility requirements. The employer's account is subject to charge.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs