

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DWIGHT A MCDONALD
Claimant

APPEAL NO. 13A-UI-10776-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09/01/13
Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Dwight McDonald, filed an appeal from a decision dated September 19, 2013, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on October 16, 2013. The claimant participated on his own half and was represented by Iowa Legal Aid in the person of Michelle Jungers. The employer, Wal-Mart, did not provide a telephone number where a witness could be contacted and did not participate.

ISSUE:

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

FINDINGS OF FACT:

Dwight McDonald was employed by Wal-Mart from March 2002 until August 30, 2013 as a full-time employee. He had been hired as a greeter and became a cashier in 2008. In August 2013 the employer approached him with another disciplinary action for making cash handling mistakes while working the register. This was the last of many he had received over the years, most of the problem being giving too much money in change.

At that time the employer and the claimant agreed to move him from a cashier's position to stocker. Mr. McDonald agreed to this even though it was less pay because he was afraid he would be fired if he continued to work on the registers. He had been advised his job was in jeopardy if there were any further mistakes.

Before he could assume his duties as stocker he was on the registers one more time. During that shift a customer came back to his register and said Mr. McDonald had not given him the \$100.00 "cash back" he had requested from the ATM transaction. The claimant gave him \$100.00 without checking the records.

The next day the cash register drawers were audited and the \$100.00 shortage was found. The claimant was aware the corporate office had to be consulted even though he was working as a stocker in the meantime. On August 30, 2013, Doug Warnell informed Mr. McDonald he was being discharged for the final cash handling shortage.

REASONING AND CONCLUSIONS OF LAW:

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 claimant had been advised his job was in jeopardy as a result of his problems with cash handling. Even though there is no allegation of intentional wrongdoing, the claimant was guilty of negligence to such an extent as to constitute willful misconduct. He unquestioningly handed over \$100.00 to a customer who claimed he had not gotten the change. Instead the claimant could have called a supervisor to deal with the matter but did not do so.

The record establishes the claimant was discharged for continued mistakes in cash handling. This is a violation of the duties and responsibilities the employer has the right to expect of an employee and conduct not in the best interests of the employer. He is disqualified.

DECISION:

The representative's decision of September 19, 2013, reference 01, is affirmed. Dwight McDonald is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs