

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SENADA KARAJIC

Claimant

APPEAL NO: 10A-UI-15143-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 09/26/10

Claimant: Respondent (1)

Section 96.5-2– a - Discharge

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's October 21, 2010 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge. The claimant participated in the hearing. Santana Lindamin appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant 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 in September 2007. She worked full time in the can redemption room. The claimant understood employees were not allowed to become romantically involved with anyone in management. The claimant did not know the employer's policy requires co-workers to notify a manager when they are romantically involved with a co-worker.

The claimant and the head of security, J., talked and were friends before the claimant moved to a new apartment August 25. After the claimant moved, she and J. started going out and became romantically involved. The claimant's job was not in jeopardy prior to September 26. An employee told a co-manager that the claimant and J. were in a relationship. Neither the claimant nor J. had told anyone in management they were dating.

After the talking to the claimant and J., the employer verified that they were dating and had not followed the employer's policy about reporting their relationship. Also, even though J. was not the claimant's supervisor, the employer concluded his position could directly or indirectly influence the claimant or her employment. The employer discharged both employees on September 29, 2010 for violating the employer's romantically involved policy.

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).

For unemployment insurance purposes, misconduct amounts to a deliberate act and a material breach of the duties and obligations arising out of a worker's contract of employment. Misconduct is a deliberate violation or disregard of the standard of behavior the employer has a right to expect from employees or is 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 are not deemed to constitute work-connected misconduct. 871 IAC 24.32(1)(a).

The employer established business reasons for discharging the claimant. The claimant, however did not know or understand that because J. was the head of security the employer considered him in management. When the claimant was discharged, she had only been in a relationship with J. for less than a month. Even though the claimant did not follow the employer's policy to report a romantic relationship, she did not know or understand she was required to do this. The claimant may have used poor judgment, but she did not intentionally violate the employer's policy. The claimant did not commit work-connected misconduct. Therefore, as of September 26, 2010, the claimant is qualified to receive benefits.

DECISION:

The representative's October 21, 2010 determination (reference 01) is affirmed. The employer discharged the claimant for business reasons that do not constitute work-connected misconduct. As of September 26, 2010, 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/css