

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHONDRA M BROWN
Claimant

APPEAL NO. 10A-UI-13250-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 08/29/10
Claimant: Appellant (1)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated September 21, 2010, reference 01, which denied unemployment insurance benefits. After due notice, a telephone hearing was held on November 1, 2010. Claimant participated personally. Employer participated by Jessica Grimm, Co-Manager.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Chondra Brown was employed by Wal-Mart Stores from January 23, 2010 until August 29, 2010 when she was discharged from employment. Ms. Brown worked as a part-time overnight stocker and was paid by the hour.

Ms. Brown was discharged when the company's co-manager, Jessica Grimm, reviewed company surveillance tapes and determined that Ms. Brown had repeatedly manually entered her arrival time to reflect working time when Ms. Brown was not present at the facility.

Ms. Brown had repeatedly indicated to the company that she was having difficulty with her company identification badge used to clock in and out of the facility. The employer issued Ms. Brown numerous replacement badges and had allowed the claimant to manually enter her arrival times. Because of the repetitive nature of Ms. Brown's manual entries into the timekeeping system, Ms. Grimm became suspicious and compared the claimant's manually entered arrival times against surveillance tapes that showed the actual time that Ms. Brown had entered the facility. Ms. Grimm reviewed 42 instances from which Ms. Brown had arrived at work later than she had manually reported. Because of the repetitive nature of her intentional inaccurate reporting of her work time, the claimant was discharged from employment.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record is sufficient to warrant the denial of unemployment insurance benefits. It is.

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.

In this matter the facility's co-manager, Ms. Grimm, personally reviewed security tapes of 42 instances where Ms. Brown had manually entered her reporting time. Ms. Grimm found that the claimant had reported to work later than the time specified by the claimant when she manually entered her time. The employer specifically compared the manual entries made by the claimant against security tapes that showed the actual time of the claimant's arrival at work. Although Ms. Brown has numerous excuses for the manual entries that reflected different times than her actual arrival at work, the administrative law judge concludes that the claimant's testimony strains credibility. The claimant's repeated failure to accurately record her arrival time showed a willful disregard for the employer's interests and standards of behavior and thus was disqualifying under the provisions of the Iowa Employment Security Law. Benefits are withheld.

DECISION:

The representative's decision dated September 21, 2010, reference 01, is affirmed. The claimant is disqualified. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs