

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARLEA V KARNS**  
Claimant

**APPEAL NO: 06A-UI-08261-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 07/16/06 R: 02**  
**Claimant: Respondent (2)**

Section 96.5-2-a – Discharge  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Wal-Mart Stores, Inc. (employer) appealed a representative's August 7, 2006 decision (reference 01) that concluded Marlea V. Karns (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 11, 2006. The claimant participated in the hearing. Jodi Jensen appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on June 7, 2005. The claimant worked as a full-time cashier and a customer service representative.

Prior to July 11, 2006, the claimant's job was not in jeopardy. On July 11, an employee reported seeing the claimant take money out of the lost-and-found drawer in the customer service department. The employer reviewed tape from a video camera and saw the claimant take money as reported.

On July 17, the employer talked to the claimant. The claimant admitted she had taken money from the customer service area. The claimant had taken the money because she needed gas money, but the claimant had planned to pay back the money. The claimant also acknowledged

she had found a \$20.00 gift card in the parking lot and had not turned it in. The claimant used the gift card to buy food. On July 17, the claimant paid the employer \$70.00 for money she had taken that was not hers.

The employer discharged the claimant on July 17, 2006. The employer discharged the claimant because she took money that was not hers and failed to turn in a gift card she found in the employer's parking lot.

The claimant established a claim for unemployment insurance benefits during the week of July 16, 2006. The claimant filed claims for the weeks ending July 22 through August 26, 2006. The claimant received a total of \$879.00 in benefits for these weeks.

#### **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. 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 claimant's decision to "borrow" money from the customer service department with the intent of paying it back, but without the employer's knowledge amounts to an intentional and substantial disregard of the standard of behavior the employer has a right to expect from an employee. The claimant committed work-connected misconduct. Therefore as of July 16, 2006, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending July 22 through August 26, 2006. The claimant has been overpaid \$879.00 in benefits she received for these weeks.

**DECISION:**

The representative's August 7, 2006 decision (reference 01) is reversed. The employer discharged the claimant for reasons constituting work-connected misconduct. The claimant is disqualified from receiving unemployment insurance benefits as of July 16, 2006. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive benefits for the weeks ending July 22 through August 26, 2006. The claimant has been overpaid and must repay a total of \$879.00 in benefits she received for these weeks.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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