

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRETT F BARTELS**  
Claimant

**APPEAL NO. 12A-UI-01990-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**KWIK TRIP INC**  
Employer

**OC: 01/15/12  
Claimant: Appellant (1)**

Section 96.5(2)a – Discharge

**STATEMENT OF THE CASE:**

The claimant, Brett Bartels, filed an appeal from a decision dated February 17, 2012, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on April 2, 2012. The claimant participated on his own behalf. The employer, Kwik Trip, participated by Store Leader Kathy Hanson.

**ISSUE:**

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

**FINDINGS OF FACT:**

Brett Bartels was employed by Kwik Trip from April 19, 2010 until December 3, 2011 as a part-time clerk. He received a copy of the employee handbook at the time of hire. The attendance policies notify employees they must punch in and out if they leave the store, and any absences or tardies must be reported directly to a supervisor.

On November 26, 2011, the claimant was scheduled to work 12:30 p.m. to 9:30 p.m. He left the store without punching out or notifying the supervisor several times. On November 29, 2011, another employee notified Store Leader Kathy Hanson of the incident and she viewed all the video surveillance footage for that day. The videos showed the claimant leaving the store from 3:48 p.m. until 4:37 p.m., from 6:02 p.m. to 7:38 p.m., and leaving at 8:06 p.m. without punching out at any time. He claimed he had to go home and help his girlfriend, who had had an injury to her foot and was connected to some sort of machine which he had to fix. But, the girlfriend was in the store that evening, having driven herself there to buy some cigarettes.

Ms. Hanson reviewed the information with Mr. Bartels on November 30, 2011, and he admitted to leaving the store without punching out or notifying her of his need to be gone, and not correcting his time records. The store leader referred the situation to the corporate human resources department and was instructed to discharge the claimant. The next scheduled day of work was December 3, 2011, and Mr. Bartels was notified at that time he was fired.

**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's assertion of three medical emergencies in one night for his girlfriend lacks credibility in light of the fact said girlfriend was well enough to go to the store only to buy cigarettes that same day. And after three alleged medical emergencies, the girlfriend was not taken to the emergency room. In any event, even if there was an emergency or three, the claimant could have punched out but he did not, and he could have contacted Ms. Hanson to apprise her of his need to be gone but he did not. He did not correct his time records and was claiming wages for nearly four hours that he did not work. 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. The claimant is disqualified,

**DECISION:**

The representative's decision of February 17, 2012, reference 01, is affirmed. Brett Bartels is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount in insured work, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw