

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHRISTOPHER MADISON**

Claimant

**WALMART, INC**

Employer

**CASE NO. 22IWDUI0026  
IWD APPEAL NO. 21A-UI-18144**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 5/16/2021  
Claimant: Appellant (2)**

Iowa Code § 96.5(2)(a) – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Christopher Madison (Madison) filed a timely appeal from an August 4, 2021, unemployment insurance decision that denied unemployment benefits based on excessive unexcused absenteeism. A telephone hearing was held October 5, 2021. The parties were properly notified of the hearing. The claimant participated and was self-represented. Neither the employer nor a representative for the employer called in for the hearing.

Official notice was taken of the documents in the administrative file. Neither party submitted exhibits.

**ISSUE:**

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Christopher Madison was employed as a food sales associate at Walmart. He began working part time at Walmart in November 2018. He was a full-time employee when his employment ended in

May 2021. His last day of work was May 11, 2021. Madison's department manager called him into the office and terminated his employment because he had been absent too many times and had accumulated too many points. Madison had missed work due to illness and had never been a no-call/no-show. Madison was instructed to call a specific phone number when he was ill, and he always called this number when he was not able to come to work. His most recent absence prior to termination was because of illness. (Madison testimony.)

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the August 4, 2021, unemployment insurance decision that found Madison ineligible for benefits is reversed.

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:

Iowa Administrative Code rule 871-24.32(1)(a) provides:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitute 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.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

The employer has the burden of proof in establishing disqualifying job misconduct, and the employer in this appeal – Walmart – did not appear at the hearing. *Cosper v. Iowa Dep't of Job Serv.*, 321 N.W.2d 6 (Iowa 1982). The issue is not whether the employer made a correct decision in separating claimant, but whether the claimant is entitled to unemployment insurance benefits. *Infante v. Iowa Dep't of Job Serv.*, 364 N.W.2d 262 (Iowa Ct. App. 1984). Misconduct must be "substantial" to warrant a denial of job insurance benefits. *Newman v. Iowa Dep't of Job Serv.*, 351 N.W.2d 806 (Iowa Ct. App. 1984).

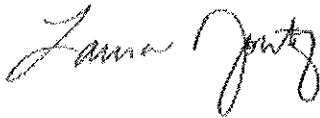
In an at-will employment environment, an employer may discharge an employee for any number of reasons or no reason at all if it is not contrary to public policy. However, if the employer fails to meet its burden of proof to establish job-related misconduct as the reason for the separation, it incurs potential liability for unemployment insurance benefits related to that separation. A determination as to whether an employee's act is misconduct does not rest solely on the interpretation or application of the employer's policy or rule. A violation is not necessarily disqualifying misconduct even if the employer was fully within its rights to impose discipline up to or including discharge for the incident under its policy.

Madison provided credible testimony that his absences prior to his termination were due to illness and were properly reported on the Walmart phone line. Walmart did not provide any testimony or exhibits. Absences can rise to the level of misconduct if the absences are both excessive and unexcused. See *Higgins v. Iowa Dep't of Job Serv.*, 350 N.W.2d 187 (Iowa 1984). Absences due to illness are deemed excused if the employee properly notifies the employer. Iowa Admin. Code r. 871-24.32(7).

I find Madison's conduct did not rise to the level of misconduct. His absences were properly reported to his employer and were due to illness. Therefore, Madison did not commit misconduct and benefits shall be allowed, provided he is otherwise eligible.

**DECISION:**

The August 4, 2021, unemployment insurance decision is reversed. Claimant was discharged from employment for no disqualifying reason. Benefits are allowed, provided he is otherwise eligible.



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Laura Jontz  
Administrative Law Judge

October 8, 2021

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Decision Dated and Mailed

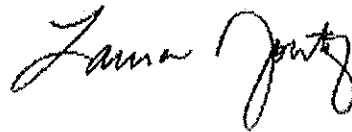
CC: Christopher Madison, Claimant (by first class mail)  
Walmart, Inc., Employer (by first class mail)  
Karen Holett (by email)  
Joni Benson, IWD (by AEDMS)

**Case Title:** MADISON V. WALMART INC

**Case Number:** 22IWDUI0026

**Type:** Order

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Laura Jontz", written in a cursive style.

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Laura Jontz, Administrative Law Judge