

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIE S BRIDGES

Claimant

APPEAL NO. 12A-UI-12046-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 09/09/12

Claimant: Appellant (1)

Section 96.5(2)a – Discharge

STATEMENT OF THE CASE:

The claimant, Valerie Bridges, filed an appeal from a decision dated September 25, 2012, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on November 2, 2012. The claimant participated on her own behalf. The employer, Wal-Mart, participated by Store Manager Jan Coon.

ISSUE:

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

FINDINGS OF FACT:

Valerie Bridges was employed by Wal-Mart from December 3, 2011 until September 7, 2012 as a part-time cashier. At the time of hire she was issued an employee discount card and was informed only she, her spouse and legal dependents could use the card.

On July 15, 2012, Ms. Bridges received a warning because she had allowed an unauthorized person to use her discount card. The warning stated any further violations would lead to disciplinary action up to and including discharge. She was also given a copy of the policy to review.

On August 31, 2012, Ms. Bridges again let an unauthorized person use her discount card. This was discovered on September 1, 2012, by Assistant Manager Jessica Mortel when she reviewed the discount card report. After that she viewed the video surveillance footage of the transaction and saw the claimant moving away from the cash register, around the end of the counter and scanning her own discount card for another woman who was checking out.

Ms. Mortel informed Store Manager Jan Coon. He reviewed the matter and on September 3, 2012, consulted with the asset protection manager. This consultation is required before an employee can be discharged for theft. The decision was made to discharge and Ms. Mortel notified the claimant on her next scheduled day of work on September 7, 2012.

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 had been advised her job was in jeopardy as a result of her misuse of the employee discount card. In spite of the warning, and being given a copy of the policy to review, Ms. Bridges once again violated the discount card regulations. Such benefits given by the employer must be used only in accordance with the policies established. The claimant willfully and deliberately violated the policy a second time in less than two months. 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 September 25, 2012, reference 01, is affirmed. Valerie Bridges is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs