

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIEL W WADHAMS
Claimant

APPEAL NO. 11A-UI-09314-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05/22/11
Claimant: Appellant (2)

Section 96.5-2-a – Discharge

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 27, 2011, reference 01, that concluded he was suspended for work-connected misconduct. A telephone hearing was held on August 18, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing with his representative, Roscoe Ries. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant suspended for work-connected misconduct?

FINDINGS OF FACT:

The claimant worked for the employer from November 2006 to May 26, 2011. The employer suspended the claimant on May 26, 2011, after he was arrested on a warrant for a simple misdemeanor domestic assault charge going back to September 2005.

The suspension was not a disciplinary suspension but was a suspension pending the outcome of the criminal charges. On July 5, 2011, the charges were dismissed and the claimant returned to work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was discharged or suspended for work-connected misconduct as defined by the unemployment insurance law.

The unemployment insurance law disqualifies claimants discharged for work-connected misconduct. Iowa Code § 96.5-2-a. The rules define misconduct as (1) deliberate acts or omissions by a worker that materially breach the duties and obligations arising out of the contract of employment, (2) deliberate violations or disregard of standards of behavior that the employer has the right to expect of employees, or (3) carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent, or evil design. 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 misconduct within the meaning of the statute. 871 IAC 24.32(1).

No willful and substantial work-connected misconduct has been proven in this case. In addition, the rules state that a disciplinary suspension must be treated as a discharge and evaluated using the misconduct standards. In this case, the suspension was not for disciplinary reasons.

DECISION:

The unemployment insurance decision dated June 27, 2011, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw