

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BETH J FISHER**

Claimant

**APPEAL NO. 11A-UI-15382-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 10/30/11**

**Claimant: Respondent (2)**

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

**STATEMENT OF THE CASE:**

The employer filed an appeal from the November 18, 2011 (reference 01) decision that allowed benefits. After due notice was issued, a hearing was held by telephone conference call on December 21, 2011. Claimant participated. Employer participated through market health and wellness director Mark Schneweis.

**ISSUE:**

The issue is whether claimant was discharged for reasons related to job misconduct sufficient to warrant a denial of benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as pharmacist from September 10, 2008 and was separated from employment on October 31, 2011. She was based in Mount Pleasant but also travelled to other stores to fill in shifts. District manager Mike Borg provided her with standard operating procedures (SOP) about filling scripts and the quality assurance program requirements of “four-pointing” or ensuring accuracy on prescription fills. On October 25 pharmacy manager Reagan Sadler reported that on October 24 she discovered an incident from August 1, 2011 in which the claimant filled a prescription with the wrong drug. It was written as and should have been filled with glyburide but it was filled with glipizide. If a pharmacist has four qualifying errors within a 12-month period they are sent to a seminar in Bentonville. A June 11, 2010 incident was reported on June 22 and claimant was given a verbal coaching on June 25 because of errors of an undetermined nature. The employer evaluates errors based upon the drug, strength, directions, and patient name, which is referred to a “four-point” error evaluation. On September 14, 2010 claimant had a bagging error and mixed up two patients’ orders. This was reported on September 23 and a written coaching was issued on September 24. On February 22 and April 25, 2011 claimant had four-pointing errors for discrepancies between the drug in the bottle and the one listed on the label. On April 28, 2011 the employer issued a written coaching for the error from the prescription written for Verapamil CR and the fill of Verapamil. On April 28 an error was reported dated April 8, 2011 when claimant made a bagging error for identical medications but patient names were switched. A written warning for

the incident was issued on May 2, 2011. After claimant attended a quality assurance seminar from June 14 through 16, 2011 she was required to cut incidents in half such that a third incident within a year after would result in termination. On August 25, 2011 the employer issued a written coaching for an August 18 incident when two patients received each others' medications. On September 30, 2011 an August 9, 2011 incident was reported, and a written coaching was issued October 4, for a four-point error for filling a prescription for the wrong strength. The dosage should have been 125 mcg but 25 mcg were in the bottle.

Staffing shortages and extra responsibilities of running the cash register and answering the telephone caused interruptions that contributed to the errors but claimant testified it was "still my fault" and "I agree I was responsible for all of these" errors and acknowledged responsibility for "four-pointing."

The claimant has claimed but has not received unemployment benefits after the separation on a claim with an effective date of October 30, 2011 and a reopening date of November 20, 2011.

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

For the reasons that follow, the administrative law judge concludes the claimant was discharged from employment due to job-related misconduct.

Iowa Code § 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.

Workers in the pharmacy industry reasonably have a higher standard of care required in the performance of their job duties to ensure public safety and health. The employer has presented substantial and credible evidence and claimant agreed that she made repeated errors in “four-pointing” and had been warned about the issues. This was negligence to such a degree of recurrence as to rise to the level of disqualifying job related misconduct. Benefits are denied.

**DECISION:**

The November 18, 2011 (reference 01) decision is reversed. The claimant was discharged from employment due to job-related misconduct. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. Inasmuch as no benefits were paid, no overpayment applies.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/pjs