

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KEVIN J LEEPER
8900 NE 25TH ST #114
CARLISLE IA 50047

WAL-MART STORES INC
% TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-09319-CT
OC: 08/01/04 R: 02
Claimant: Respondent (3)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6(2) – Prior Adjudication

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated August 20, 2004, reference 02, which held that a decision had been made on a prior claim concerning Kevin Leeper's separation from employment and that such decision remained in effect. After due notice was issued, a hearing was held by telephone on September 7, 2004. The employer participated by Brandon Stucki, District Loss Prevention Supervisor. Exhibits One through Five were admitted on the employer's behalf. Mr. Leeper did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Leeper initially filed a claim for job insurance benefits effective August 3, 2003. After his July 8, 2004 separation from Wal-Mart, he filed an additional claim effective July 11, 2004. On August 5, 2004, a decision was issued by Workforce Development holding that Mr. Leeper had been discharged from Wal-Mart but that misconduct had not been established. The employer appealed and the determination has been reversed in Appeal 04A-UI-08758-CT. Mr. Leeper subsequently filed a new claim effective August 1, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Leeper's separation from Wal-Mart has been previously adjudicated. It was adjudicated after he filed an additional claim on his claim originally filed effective August 3, 2003. Inasmuch as the matter has been previously adjudicated, there is no further determination necessary. The prior adjudication did not become a final decision as the employer filed a timely appeal. The determination under review in the decision herein shall be reversed to be consistent with the disqualification issued in Appeal 04A-UI-08758-CT.

DECISION:

The representative's decision dated August 20, 2004, reference 02, is hereby modified. The issue of Mr. Leeper's separation has been previously adjudicated. The allowance from the prior adjudication has now been reversed as Mr. Leeper was discharged for disqualifying misconduct. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

cfc/kjf