

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

EDWARD B MCDOWELL
101 LOCUST STREET #412
DES MOINES IA 50309

WAL-MART STORES INC
C/O THE FRICK COMPANY-UC EXPRESS
P O BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-04029-BT
OC: 03/07/04 R: 02
Claimant: Respondent (1)

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 96.5-1 – Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed an unemployment insurance decision dated March 29, 2004, reference 01, which held that Edward McDowell (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 3, 2004. The claimant provided a telephone number but was not available when called for the hearing, and therefore, did not participate. The employer participated through Kelly Malone, Personnel Manager; Matt Meyer, Assistant Manager; and Devon Trombino, Training Coordinator.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time overnight stocker/sales associate from September 24, 2002 through February 12, 2004. The employer reported the claimant walked off the job in the middle of the shift because he did not want to perform a particular task, although the employer did not know what he was requested to do. The employer also could not provide information as to what time the claimant reportedly walked off the job. The claimant previously reported he was directed by his supervisor to leave.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the reasons for the claimant's separation from employment qualify him to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer or if the employer discharged him for work-connected misconduct. Iowa Code Sections 96.5-1 and 96.5-2-a.

The employer contends the claimant walked off the job but could not provide any details as to what had happened before that occurred or even what time it occurred. The notes from the fact-finding interview report the claimant was directed by his supervisor to leave. The employer could not dispute those facts as no one directly involved in the incident participated in the hearing. After the claimant has met his or her burden of proof of basic eligibility for benefits, the burden shifts to the employer on the issue of disqualification, including disqualification because of a voluntary leaving of employment. Langley v. EAB, 490 N.W.2d 300 (Iowa App. 1992). There is insufficient evidence on which to disqualify the claimant from receiving unemployment insurance benefits. Accordingly, benefits are allowed.

DECISION:

The unemployment insurance decision dated March 29, 2004, reference 01, is affirmed. The claimant's separation was not for disqualifying reasons. Benefits are allowed, provided the claimant is otherwise eligible.

sdb/s