

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

FOUSSEINI FOMBA  
313 – 4<sup>TH</sup> AVE APT 5  
CORALVILLE IA 52241

WAL-MART STORES INC  
c/o TALX UCM SERVICES  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05O-UI-00875-DT  
OC: 10/31/04 R: 04  
Claimant: Respondent (4)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed a representative's November 22, 2004 decision (reference 01) that concluded Fousseini Fomba (claimant) was qualified to receive unemployment insurance benefits. There had been a prior hearing and decision in this matter, but after appeal to the Employment Appeal Board, this matter was remanded to the Appeals Section for a new hearing. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 10, 2005. The claimant participated in the hearing. Steven Applebee appeared on the employer's behalf and presented testimony from one other witness, Sally Iberg. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

#### FINDINGS OF FACT:

The claimant started working for the employer on July 17, 2001. He worked full time as sales associate in the employer's Coralville, Iowa store. For at least a four-month period, his last day of work was July 23, 2004.

The claimant had been interested in transferring to another store location in Columbus, Ohio. Prior to July 23, 2004, the claimant had met with representatives of that store location and they agreed that there would be a position available for him there. Therefore, the claimant made arrangements with the Coralville store that July 23 would be his last day of work there, and he moved to Columbus. On or about July 28, the Columbus store contacted the Coralville store and asked that the claimant's file be transferred, confirming that it had agreed to hire the claimant. However, on or about July 30, when the claimant went into the Columbus store to get his hours, he was told that there was some computer system problem that was not allowing the Columbus store to put the claimant into its system. Employment at each store is considered independent for various purposes. After some going back and forth between the Coralville and Columbus stores to try to get the problem straightened out, the claimant and his family moved back to stay with other relatives in Iowa. On November 6 the claimant recontacted the Coralville store and spoke to Mr. Applebee, the store manager. Mr. Applebee agreed that the claimant could be restored to his position at the Coralville store; the claimant resumed his employment there on November 24, 2004.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit, and if so, whether it was for good cause attributable to the employer.

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did voluntarily quit his employment at the Coralville store in order accept other employment at the Columbus store. The claimant is not disqualified from receiving benefits as a result of this quit in the event of a future separation from employment, but the employer's account will not be charged.

DECISION:

The representative's November 22, 2004 decision (reference 01) is modified in favor of the employer. The claimant voluntarily left his employment, but the quit was not disqualifying. The claimant is eligible for unemployment insurance benefits, provided he is otherwise eligible. The employer's account will not be charged.

ld/pjs