

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

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WAL-MART STORES INC  
c/o FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-03139-SWT  
OC: 10/24/04 R: 02  
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 96.4-3 - Able to and Available for Work  
Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits  
Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 18, 2005, reference 11, that concluded the claimant was eligible to receive partial unemployment insurance benefits and the employer's account was chargeable for benefits paid to the claimant since his hours and/or wages had been reduced. A telephone hearing was held on April 12, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Tim Beckman participated in the hearing on behalf of the employer.

#### FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits effective October 24, 2004, after his full time employment with Zylstra Cycle Company ended. His weekly benefit amount was determined to be \$322.00.

The claimant worked 15 to 20 hours per week, for the employer as a seasonal electronics merchandiser from December 10, 2004, to February 13, 2005. The claimant was informed that his hours would go down after the holiday season. The claimant worked part time during the week ending February 12, 2005, and earned \$112.00 in benefits. The next week, the claimant voluntarily quit employment to accept a full time job and stopped filing for benefits. His hours for his new job conflicted with his work hours with the employer.

The claimant filed an additional claim for unemployment insurance benefits with an effective date of February 6, 2005. The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective February 6, 2005. The claimant filed a claim requesting partial unemployment insurance benefits because his earnings were less than the weekly benefit amount.

Iowa Code Section 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code Section 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which the individual, having separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

During the week ending February 12, 2005, the claimant was entitled to partial unemployment insurance benefits since his earnings were less than his weekly benefit amount plus \$15.00.

The unemployment insurance law provides that an individual be able to and available for work. Iowa Code section 96.4-3. The evidence establishes the claimant was available for work.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, its account will not be charged benefits paid to the claimant because the claimant voluntarily quit employment to accept another job, which exempts the employer's account under Iowa Code section 96.5-1-a.

DECISION:

The unemployment insurance decision dated March 18, 2005, reference 11, is modified. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The employer's account will not be subject to charge for benefits paid to the claimant if the employer becomes a base period employer in a future benefit year.

saw/pjs