

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX W KINGERY
Claimant

APPEAL NO. 13A-UI-11150-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09/30/12
Claimant: Appellant (2)

Section 96.5(1)a – Quit/Other Employment
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant, Alex Kingery, filed an appeal from a decision dated June 20, 2013, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on October 24, 2013. The claimant participated on his own behalf and with Ken Brody. The employer, Wal-Mart, participated by Human Resources Manager Julie Bluhm. Exhibit D-1 was admitted into the record.

ISSUE:

The issue is whether the appeal is timely and whether the claimant quit work with good cause attributable to the employer.

FINDINGS OF FACT:

A disqualification decision was mailed to the claimant's last-known address of record on June 20, 2013. The claimant never received the decision.

Alex Kingery was employed by Wal-Mart from September 6, 2007 until June 9, 2012 as a part-time worker in the produce department. He had been hired by Brothers Seamless Gutters (Brothers) on April 2, 2012, for a full-time position. He quit Wal-Mart because he was taking on more responsibilities at his full-time job. He continued to work for Brothers until September 30, 2012, when he was laid off for the winter. The employer recalled him in May 2013.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the

claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The appeal shall be accepted as timely.

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 quit Wal-Mart to devote his efforts to his full-time job and he continued in that employment until a layoff in September 2012. Under the provisions of the above Code section, he had requalified prior to filing his claim for unemployment benefits. .

DECISION:

The decision of the representative dated June 20, 2013, reference 02, is reversed. Alex Kingery is qualified for benefits, provided he is otherwise eligible. The account of Wal-Mart shall not be charged with benefits paid to the claimant after June 9, 2012.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css