

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANDREW L WALKER
Claimant

APPEAL NO: 13A-UI-02986-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KOHL'S DEPARTMENT STORES INC
Employer

OC: 02/03/13
Claimant: Appellant (4)

Iowa Code § 96.6-2 - Dismissal of Appeal

STATEMENT OF THE CASE:

An appeal was filed from a representative's decision dated March 8, 2013 (reference 02). A hearing was scheduled for April 10, 2013. Prior to the hearing being held, the representative's decision being appealed was amended by another decision issued on March 26, 2013. Therefore, a hearing on the appeal from the initial decision is not in order. Based on a review of the administrative file and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Should the appeal be dismissed?

FINDINGS OF FACT:

The representative's decision issued on March 8, 2013 (reference 02) found that the December 12, 2012 separation from employment between Andrew L. Walker (claimant/appellant) and Kohl's Department Stores, Inc. (employer/respondent) was a voluntary quit which entirely disqualified the claimant from eligibility for unemployment insurance benefits. The representative's decision which was issued on March 26, 2013 (reference 03) amended that decision to conclude that while the separation was a voluntary quit without good cause attributable to the employer, the separation was not totally disqualifying to the claimant. Rather, the amended decision concluded that while the claimant was not eligible to receive benefits based on his wages with the employer until he earns ten times his weekly benefit amount, because the separation was a voluntary quit of a part-time job and because the claimant had sufficient qualifying wages from other employers, he was eligible to receive benefits based upon those other wages.

REASONING AND CONCLUSIONS OF LAW:

The original decision which was appealed has been substantially amended so as to render the original appeal of that decision incongruous. The appeal from that decision is therefore dismissed. The claimant should be aware, however, that even as amended the new representative's decision issued on March 26, 2013 (reference 03) has the potential for potential

disqualification in a subsequent benefit year, in the albeit unlikely event that the claimant does not earn requalifying wages in new employment after his December 12, 2012 separation from this employer, and if in that new benefit year the claimant would not have sufficient wages to be otherwise eligible based on his employment with other employers. Therefore, in the event that the claimant would still wish to challenge the decision which concluded that his separation from the employer was a voluntary quit without good cause attributable to the employer, he should renew his appeal by promptly filing a new appeal to the March 26, 2013 (reference 03) decision, upon which a new hearing would then be scheduled.

DECISION:

The decision of the representative dated March 8, 2013 (reference 02) is affirmed as amended by the representative's March 26, 2013 (reference 03) decision. The appeal on the original decision is dismissed, and there will be no hearing. Consistent with the amended decision, the claimant is not disqualified and the employer's account is not subject to charge because the claimant voluntarily quit part-time employment without good cause attributable to the employer. If the claimant disagrees with the amended representative's decision, he should file a new appeal to the new representative's decision.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs