

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

LEROY GORDON
1352 – 12TH ST
DES MOINES IA 50314

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

Appeal Number: 05A-UI-04548-DWT
OC: 03/27/05 R: 02
Claimant: Respondent (2)

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 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed a representative's April 18, 2005 decision (reference 01) that concluded Leroy Gordon (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the claimant had been discharged for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known address of record, a telephone hearing was held on May 19, 2004. The claimant failed to respond to the hearing notice by contacting the Appeals Section prior to the hearing and providing the phone number at which he could be contacted to participate in the hearing. As a result, no one represented the claimant. Ron Hale and Rodney Walker, the store manager, appeared on the employer's behalf. 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.

ISSUES:

Did the claimant voluntarily quit his employment with good cause attributable to the employer or did the employer discharge the claimant for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on February 24, 2004. The claimant worked as a full-time service technician.

During his employment, the claimant and his supervisor talked to Walker about the claimant receiving timely breaks. Walker understood this issue was resolved in August.

The claimant worked as scheduled on September 22, 2004. The claimant was scheduled to work on September 25, 27, 28, 30, October 1, 2, 4 and 5. He did not call or report to work any of these days. When the claimant did not contact the employer after September 22, 2005, the employer concluded the claimant abandoned or voluntarily quit his employment.

The claimant established a claim for unemployment insurance benefits during the week of March 27, 2005. The claimant filed claims for the weeks ending April 2 through May 14, 2005. The claimant received a total of \$1,366.00 benefits for these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause or an employer discharges the claimant for reasons constituting work-connected misconduct. Iowa Code §§96.5-1, 2-a. The facts establish the claimant voluntarily quit his employment by abandoning it after September 22, 2004. When a claimant quits his employment, he has the burden to establish he quit with good cause attributable to the employer. Iowa Code §96.6-2.

The claimant may have had compelling reasons for quitting his employment. The evidence does not, however, establish that he quit for reasons that qualify him to receive unemployment insurance benefits. As of March 27, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code §96.3-7. The claimant is not legally entitled to receive unemployment insurance benefits for the weeks ending April 2 through May 14, 2005. The claimant has been overpaid \$1,366.00 in benefits he received for these weeks.

DECISION:

The representative's April 18, 2005 decision (reference 01) is reversed. The claimant voluntarily quit his employment by abandoning it. The claimant is disqualified from receiving unemployment insurance benefits as of March 27, 2005. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged. The claimant is not legally entitled to receive unemployment insurance benefits for the weeks ending April 2 through May 14, 2005. The claimant has been overpaid and must repay \$1,366.00 in benefits he received for these weeks.

dlw/pjs