

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

CHRISTINA M MARTINEZ  
252 – 9<sup>TH</sup> ST SE  
MASON CITY IA 50401

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

Appeal Number: 05A-UI-04416-DWT  
OC: 06/27/04 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, 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 Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed a representative's April 15, 2005 decision (reference 03) that concluded Christina M. Martinez (claimant) was qualified to receive unemployment insurance benefits, and the employer's account was subject to charge because the reason for the claimant's employment separation was for nondisqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 19, 2005. The claimant participated in the hearing. Stacy Waner, an assistant 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.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

Has the claimant been overpaid any unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in September 2004. The employer hired the claimant to work full time. As a result of medical issues associated with her pregnancy, the claimant was restricted to working about 20 hours a week. In late December 2004, the claimant's doctor restricted her from working at all because of back problems. The claimant understood that after her child was born she would receive maternity leave.

The claimant's son was born on January 27, 2005. The employer normally gives employees six weeks of maternity leave. The employer agreed the claimant could have eight weeks. In March, sometime prior to March 25 or during the claimant's eighth week of maternity leave, the employer contacted her to find out when she planned to return to work. When the employer called, the claimant's physician had not yet been released her to return to work. The claimant's physician released her to work as of April 4, 2005.

During the March phone conversation, the claimant expressed her desire to only work part time and not full time. When the employer told the claimant she would be expected to work a minimum of 28 hours a week plus weekends, the claimant indicated she was not interested in returning to work. The claimant wanted to stay home and take care of her newborn son. The claimant went to the employer's store on March 28 and signed a form indicating her employment ended because she wanted to stay home to take care of her son.

The claimant reopened her claim for benefits during the week of March 27, 2005. She filed claims for the weeks ending April 2 through May 14, 2005. The claimant received her maximum weekly benefit amount of \$149.00 for each of these weeks.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code §§ 96.5-1, 2-a. The facts establish the claimant voluntarily quit her employment in mid-March when she told the employer she did not want to return to work as a full-time employee.

When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code § 96.6-2. The employer hired the claimant to work as a full-time employee. As a result of medical issues the claimant had some restrictions, which the employer accommodated. When the claimant's maternity leave was over, the employer had the right expect her to return to work full time, not part time. Even though the claimant had yet been released to return to work, the claimant decided she only wanted to work part time and not full time. It is understandable that the claimant wanted to stay home with her newborn son. While this is a compelling personal reason for quitting, this reason does not qualify the claimant

to receive unemployment insurance benefits. Therefore, as of March 27, 2005, the claimant is not qualified to receive unemployment insurance benefits.

If an individual receives benefits she 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 benefits for the weeks ending April 2 through May 14, 2005. The claimant has been overpaid a total of \$1,043.00 in benefits she received for these weeks.

**DECISION:**

The representative's April 15, 2005 decision (reference 03) is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 27, 2005. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she 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 any must repay \$1,043.00 in benefits she received for these weeks.

dlw/sc