

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARISSA J HOWELLS

Claimant

APPEAL NO: 14A-UI-08373-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 07/20/14

Claimant: Respondent (2/R)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.3(7) – Overpayment of Benefits

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's August 5, 2014 (reference 01) determination that held the claimant qualified to receive benefits and the employer's account subject to charge because she had voluntarily quit her employment for reasons that qualified her to receive benefits. The claimant did not respond to the hearing notice or participate at the September 3 hearing. Vickie Crissey, an assistant manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments and the law, the administrative law judge concludes the claimant is not qualified to receive benefits and has been overpaid benefits.

ISSUES:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

Has the claimant been overpaid benefits she has received since July 20, 2014?

FINDINGS OF FACT:

The claimant started working for the employer in late October 2013. The claimant worked at least 32 hours a week as a stocker.

On July 19 the claimant gave the employer her written resignation indicating her last day of work would be August 7, 2014 because she was going back to school. The claimant left work about two hours after she gave the employer her resignation notice. Although the claimant was scheduled to work after July 19 and could have worked until August 7, 2014 she did not return to work or contact the employer after July 19, 2014.

The claimant established a claim for benefits during the week of July 20, 2014. The employer's witness did not know if the employer participated at the fact-finding interview.

The claimant filed claims for the weeks ending July 26 through August 30, 2014. Each of these weeks she received her maximum weekly benefit amount of \$212.00 with the exception of the week ending August 16. For the week ending August 16 the claimant received a gross benefit payment of \$195.00.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). The claimant quit on July 19 when she submitted her written resignation and then left work early and did not return. When a claimant quits, she has the burden to establish she voluntarily quits for reasons that qualify her to receive benefits. Iowa Code § 96.6(2). The law presumes a claimant quits without good cause when she leaves to attend school. 871 IAC 24.25(26). The claimant may have had good reasons for quitting, but the evidence does not establish that she quit for reasons that qualify her to receive benefits. As of July 20, 2014 the claimant is not qualified to receive benefits.

The unemployment insurance law requires benefits be recovered from a claimant who receives benefits and is later denied benefits even if the claimant acted in good faith and was not at fault. However, a claimant will not have to repay an overpayment when an initial decision to award benefits on an employment separation issue is reversed on appeal if two conditions are met: (1) the claimant did not receive the benefits due to fraud or willful misrepresentation, and (2) the employer failed to participate in the initial proceeding that awarded benefits. In addition, if a claimant is not required to repay an overpayment because the employer failed to participate in the initial proceeding, the employer's account will be charged for the overpaid benefits. Iowa Code § 96.3(7)a, b.

Based on this decision, the claimant is not legally entitled to receive benefits as of July 20, 2014. Therefore, she has been overpaid \$1,255.00 in benefits she received for the weeks ending July 26 through August 30.

The employer is a base-period employer. Since the employer's representative did not know if the employer participated at the fact-finding interview, this matter will be remanded to the Benefits Bureau to determine if the employer satisfied the participation requirements. Based on this determination the overpayment will either be charged to the employer or the claimant will be responsible for paying back the overpayment.

DECISION:

The representative's August 5, 2014 (reference 01) determination is reversed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive benefits. As of July 20, 2014 the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible.

The claimant has been overpaid \$1,255.00 in benefits she received for the weeks ending July 26 through August 30, 2014. The issues of whether the employer participated at the fact-finding interview and if the employer's account will be charged or the claimant is responsible for paying back the overpayment are remanded to the Benefits Bureau to decide and to issue an appealable determination to both parties.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can