

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

DIANA L BEKERIS  
624 – 34<sup>TH</sup> ST NE  
CEDAR RAPIDS IA 52402

WAL-MART STORES INC  
C/O FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-01917-HT  
OC: 01/09/05 R: 03  
Claimant: Respondent (4)

**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-g – Quit/Requalification

STATEMENT OF THE CASE:

The employer, Wal-Mart, filed an appeal from a decision dated February 14, 2005, reference 01. The decision allowed benefits to the claimant, Diana Bekeris. After due notice was issued a hearing was held by telephone conference call on March 10, 2005. The claimant participated on her own behalf. The employer participated by Personnel Manager Jenny Timmons.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Diana Bekeris was employed by Wal-Mart from

March 25 until August 3, 2004. She was a full-time cake decorator. The claimant submitted a two-week notice of resignation on July 25, 2004. She was unhappy that she was not being approved to take time off without pay by her supervisor. Ms. Bekeris had another job as a stagehand at the local civic center and wanted to perform that job periodically. However, the requests were denied because she not only did not have any paid time off available, but the department needed someone on duty until 8:00 p.m.

Ms. Bekeris filed a claim for unemployment benefits with an effective date of January 9, 2005. Her weekly benefit amount is \$222.00. Subsequent to leaving Wal-Mart, but prior to filing a claim for unemployment benefits, the claimant has earned more than ten times her weekly benefit amount from subsequent employers.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is not.

Iowa Code section 96.5-1-g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant quit because she was displeased at not being given permission to take time off from work. Although she was willing to take the time as unpaid, the employer was not necessarily obliged to give her time off as she had no accumulated vacation time. The resignation was without good cause attributable to the employer.

However, she has requalified under the provisions of the above Code section by earning more than ten times her weekly benefit amount prior to filing her claim for benefits.

#### DECISION:

The representative's decision of February 14, 2005, reference 01, is modified in favor of the appellant. Diana Bekeris is qualified for benefits, provided she is otherwise eligible. However, the account of the employer will not be charged with benefits paid to the claimant.

bgh/sc