

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

LINDSEY E VAN FLEET
200 DICKMAN RD #210
DES MOINES IA 50315

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

Appeal Number: 04A-UI-07781-CT
OC: 06/06/04 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, 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

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated July 8, 2004, reference 03, which held that no disqualification would be imposed regarding Lindsey Van Fleet's separation from employment. After due notice was issued, a hearing was held by telephone on August 9, 2004. Ms. Van Fleet participated personally. The employer participated by Melanie Harryman, Co-Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Van Fleet worked for Wal-Mart from September 3 until

September 17, 2003. She was hired to work full time as a cashier. On or about September 17, she requested a one-month leave of absence due to personal issues involving her children. She was told that, given the short duration of her employment, she was not eligible for a leave of absence. She was told that her employment could be terminated and she could reapply at a later date. Ms. Van Fleet reapplied for work one month after her separation but no work was available. She was told she would be called if and when work was available.

Ms. Hansen wanted time off because her children were being removed by the Department of Human Services. She needed time to arrange a placement for them. She also wanted time off due to the stress of the situation. Continued work would have been available if she had not wanted the time off.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Van Fleet was separated from employment for any disqualifying reason. The administrative law judge concludes that the separation should be considered a quit. Ms. Van Fleet initiated the separation when she requested a leave of absence. The employer offered termination as a means to accommodate the request for time off. Ms. Van Fleet knew the only way she could have the time off she wanted was to end the employment relationship at that time. It was not the employer's desire to end the working relationship that caused the separation.

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Ms. Van Fleet had the burden of proving that she had good cause attributable to the employer for quitting. Iowa Code Section 96.6(2). She left employment due to family needs or responsibilities. An individual who leaves employment under such circumstances is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(23). For the reasons stated herein, the administrative law judge concludes that Ms. Van Fleet's separation was not for any cause attributable to the employer. Accordingly, benefits are denied.

No overpayment results from this reversal of the prior allowance as Ms. Van Fleet has not been paid benefits on her claim filed effective June 6, 2004.

DECISION:

The representative's decision dated July 8, 2004, reference 03, is hereby reversed. Ms. Van Fleet quit her employment with Wal-Mart for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/b