

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

ROBERT P MAJOR
36 ALFRED AVE
INDIANOLA IA 50125

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

Appeal Number: 04A-UI-01171-CT
OC: 12/28/03 R: 02
Claimant: Respondent (1)

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(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated January 23, 2004, reference 01, which held that no disqualification would be imposed regarding Robert Major's separation from employment. After due notice was issued, a hearing was held by telephone on February 24, 2004. Mr. Major participated personally and Exhibits A through C were admitted on his behalf. The employer participated by Brandon Stucki, District Loss Prevention Supervisor, and Jamie Thompson, Store 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: Mr. Major began working for Wal-Mart on July 22, 2000 at its Indianola location. He was last employed as a full-time loss prevention associate at the location on Southeast 14th Street in Des Moines. He was in loss prevention during the final 1.5 years of employment. Mr. Major had an agreement with his previous supervisor that he would not work beyond 6:00 p.m. during the week and would work on alternate weekends. He would write his own schedule and present it to the store manager for approval. He would sometimes miss scheduled work because of routine absences or because he made arrangements in advance to be gone.

On or about December 12, 2003, Mr. Major's new supervisor, Brandon Stucki, advised that he would have to change his schedule immediately. He would have to start working one evening per week until 8:00 p.m. and another evening during the week until 9:00 p.m. He would have two shifts during the week, which would begin no earlier than 10:00 a.m. Mr. Major cannot work beyond 6:00 p.m. because he cares for his young children while his wife is at work. He notified his supervisor that he would be unable to work the changed schedule. He was told to take some time to think about it. On December 15, Mr. Major gave the employer notice that he was quitting in two weeks if still required to change his schedule. The employer did not rescind the directive that he change his hours and, therefore, Mr. Major became separated on December 23, 2003. The change in his hours was the sole reason for his quit.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Major was separated from employment for any disqualifying reason. 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). Mr. Major had the burden of proving that his quit was for good cause attributable to Wal-Mart. Iowa Code Section 96.6(2). He quit because the employer changed his work hours, the hours he had worked during his 1.5 years in loss prevention. He had not worked beyond 6:00 p.m. prior to the proposed change. The change would have added two and three hours to each of his two weekday evening shifts. Given his family obligations, this change was a substantial one for Mr. Major and was contrary to the agreement he had made with management. The employer was on notice that he would quit if required to change his hours. Because the employer was unable to keep him at his normal hours, he had good cause attributable to the employer for quitting based on a substantial change in the terms and conditions of employment.

DECISION:

The representative's decision dated January 23, 2004, reference 01, is hereby affirmed. Mr. Major voluntarily quit his employment for good cause attributable to the employer. Benefits are allowed, provided he satisfies all other conditions of eligibility.

cfc/kjf