

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY A CHANCELLOR
Claimant

APPEAL NO: 09A-UI-11791-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 06/28/09

Claimant: Appellant (4/R)

Section 96.5-1 - Voluntary Quit
871 IAC 24.27 - Voluntary Quit of Part-time Job

STATEMENT OF THE CASE:

Kimberly A. Chancellor (claimant) appealed an unemployment insurance decision dated August 3, 2009, (reference 01), that concluded she was not eligible after a separation from employment from Wal-Mart Stores, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 1, 2009. The claimant participated in the hearing. Deb Nobel appeared on the employer's behalf. Administrative notice is being taken of the Agency's wage records. If either party objects to the use of the Agency's wage records, the objection must be made in writing within seven calendar days of the date of this decision. 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 for a disqualifying reason?

FINDINGS OF FACT:

The claimant started working for the employer on June 13, 2006. She worked full time as an optician in the employer's Le Mars, Iowa store through September 10, 2008, when she went to part time status due to accepting full time employment elsewhere. The claimant worked part time approximately eight to twelve hours per week for the employer through April 1, 2009. She did not work after that date due to pregnancy. She was scheduled to return from maternity leave June 1, 2009. However, on May 27, 2009 she informed the employer that she was voluntarily quitting her part time employment with the employer to focus on her family and her full time employment. She did return to the full time employer for which she had worked since September 16, 2008; however, she was laid off from that employment effective July 1, 2009.

The claimant established an unemployment insurance benefit year effective June 28, 2009. The employer paid the claimant \$1,748.00 in wages during the fourth quarter of 2008, which when combined with the wages from her full time employer was the claimant's highest quarter of

earnings during her base period. Her weekly benefit amount was determined to be \$356.00, based on her wages in the fourth quarter of 2008.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is disqualified from receiving unemployment insurance benefits because she voluntarily quit employment without good cause attributable to the employer.

Iowa Code § 96.5-1 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.

871 IAC 24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The claimant voluntarily quit employment without good cause attributable to the employer. However, the job was part time and the claimant has sufficient wages from her other employers to qualify to receive unemployment insurance benefits. Benefits are allowed, if the claimant is otherwise eligible. The employer's account will not be subject to charge for benefits paid to the claimant. This matter is remanded to the Agency for a recalculation of the claimant's weekly benefit amount.

DECISION:

The unemployment insurance decision dated August 3, 2009 (reference 01), is modified in favor of the claimant. The claimant is not disqualified and the employer's account is not subject to charge because the claimant voluntarily quit part-time employment even though it was without

good cause attributable to the employer. Benefits are allowed, if the claimant is otherwise eligible. This matter is remanded to the Agency for a recalculation of the claimant's weekly benefit amount.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs