

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

AMBER D LUND  
1117 26<sup>TH</sup> ST  
DAVENPORT IA 52802

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

Appeal Number: 04A-UI-08748-CT  
OC: 07/11/04 R: 04  
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, 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) – Voluntary Quit

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated August 3, 2004, reference 01, which held that no disqualification would be imposed regarding Amber Lund's separation from employment. After due notice was issued, a hearing was held by telephone on September 3, 2004. Ms. Lund participated personally. The employer participated by Amy Garstang, Assistant Manager. The hearing was recessed to allow the submission of additional documentation. The hearing reconvened on October 11, 2004. Ms. Lund again participated personally and the employer again participated by Amy Garstang. Exhibit One was admitted on the employer's behalf.

#### 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. Lund began working for Wal-Mart on September 25, 2003 and last performed services on July 6, 2004. She was last employed as a cashier working from 20 to 30 hours per week. At the end of May of 2004, Ms. Lund requested to go to part-time status so that she could attend school. The change was approved by management.

Wal-Mart associates can make changes as to their availability by completing a form. The form submitted by Ms. Lund on May 24, 2004 indicated she did not want to be scheduled for more than 40 hours or less than 25 hours per week. She indicated she would not be available on Tuesdays and Thursdays from 8:00 a.m. until 3:00 p.m. beginning June 1 and ending September 1, 2004. She also indicated she would not be available on Mondays and Wednesdays. Because she was still being scheduled on days she was not available, Ms. Lund submitted a new availability form on June 9, 2004. She indicated at that time that she wanted to work no less than 20 hours and no more than 25 hours per week. Because the employer continued to schedule for times she was not available, Ms. Lund stopped reporting for scheduled work. The employer presumed she had quit.

#### REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Lund was separated from employment for any disqualifying reason. The administrative law judge presumes that she quit when she stopped reporting for available work without notice to the employer. An individual who voluntarily quits employment 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. Lund had the burden of proving that her quit was for good cause attributable to Wal-Mart. Iowa Code section 96.6(2). She quit because the employer failed to schedule her for the hours she was available to work. She had been told that her request to go to part-time status was approved. The employer agreed to work around her school schedule but did not do so. Ms. Lund placed good-faith reliance on the employer's word that she would be scheduled so as to not conflict with her classes. The employer's failure to honor that commitment provided good cause attributable to the employer for quitting. For the reasons stated herein, benefits are allowed.

#### DECISION:

The representative's decision dated August 3, 2004, reference 01, is hereby affirmed. Ms. Lund was separated from employment for no disqualifying reason. Benefits are allowed, provided she satisfies all other conditions of eligibility.

cfc/kjf