

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MARILYN MASSEY**  
Claimant

**APPEAL NO. 07A-UI-00136-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 12/29/06 R: 03**  
**Claimant: Respondent (2)**

Section 95.5-1 – Voluntary Quit  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

The employer filed an appeal from a decision of a representative dated December 21, 2006, reference 02, which allowed benefits. After due notice, a telephone conference hearing was scheduled for and held on January 22, 2007. Claimant, although notified, did not participate. Employer participated by George Alvaraz. Exhibits One, Two and Three were received into evidence.

**ISSUES:**

The issues in this matter are whether the claimant quit for good cause attributable to the employer and whether the claimant is overpaid unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record finds: The claimant last worked for the employer from March 5, 2006 until September 21, 2006 when she was removed from company roles after leaving her employment to move to a different geographic area. Ms. Massey left her employment to return to a different geographic area. Although the claimant hoped to be hired by a Wal-Mart store in a geographic area where she relocated, she was not hired by the separate and distinct Wal-Mart facility in the locale where she moved. Work continued to be available to Ms. Massey. She chose to leave employment. The claimant was aware that there was no guarantee that she would be hired by another Wal-Mart facility upon leaving employment.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge finds that the claimant voluntarily quit her employment with the captioned Wal-Mart facility for personal reasons that were not attributable to this employer. The claimant left to relocate back to a different geographic area where she hoped to obtain new employment with a different Wal-Mart facility. The claimant was not guaranteed new employment. Work continued to be available to the claimant at the location where she was

employed prior to choosing to leave. As this is a quit without good cause attributable to the employer, benefits are withheld.

Iowa Code section 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.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The administrative law judge holds the claimant is overpaid unemployment insurance benefits in the amount of \$330.00 pursuant to Iowa Administrative Code section 96.3-7 because a decision has determined the claimant is ineligible to receive benefits due to a voluntary quit without good cause attributable to the employer.

**DECISION:**

The decision of the representative dated December 21, 2006, reference 02, is hereby reversed. Unemployment insurance benefits shall be withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount, provided the claimant is otherwise eligible. The claimant is overpaid unemployment insurance benefits in the amount of \$330.00

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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