

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

BETH A MARBURGER
PO BOX 374
SABULA IA 52070

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

Appeal Number: 05A-UI-04873-DWT
OC: 04/10/05 R: 04
Claimant: Appellant (4)

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-a – Voluntary Quit for Other Employment

STATEMENT OF THE CASE:

Beth A. Marburger (claimant) appealed a representative's April 26, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Wal-Mart Stores, Inc. (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 26, 2005. The claimant participated in the hearing. Dennis Purcell, a co-manager, appeared on the employer's behalf. 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 her employment for reasons that qualify her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer in May 2001. The claimant worked full time. The hours the claimant worked allowed her very little time to be with her children or husband. The claimant drove 35 minutes, one-way, to get to work.

Another employer offered the claimant a job. This job was closer to the claimant's home and would allow her to spend more time with her family. On April 8, when the claimant told the employer she was quitting, the claimant had been offered the job with the other employer. The claimant's resignation was effective immediately.

When the claimant reported to work for the new employer on April 11, 2005, with her driver's license and social security card, the new employer informed the claimant that another person with better qualification had been hired.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code section 96.5-1. When a claimant quits employment because she has accepted another job, she is not disqualified from receiving benefits, and the employer's account will not be charged. Iowa Code § 96.5-1-a.

The facts establish the claimant quit her employment on April 8, 2005, because she had accepted a job that was closer to her home and would be better for her. The new employer reneged on the job offer and hired another person, which left the claimant unemployed. 871 IAC 24.28(2). The claimant is qualified to receive unemployment insurance benefits and the employer's account will not be charged.

DECISION:

The representative's April 26, 2005 decision (reference 01) is modified in the claimant's favor. The claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits. As of April 10, 2005, the claimant is qualified to receive unemployment insurance benefits, provided she meets all other eligibility requirements. The employer's account will not be charged because the claimant quit only after she accepted other employment.

dlw/sc