

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA S RUKGABER
Claimant

APPEAL NO. 07A-UI-07199-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 06/17/07 R: 04
Claimant: Appellant (2)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Pamela Rukgaber filed an appeal from a representative's decision dated July 17, 2007, reference 01, which denied benefits for the week ending June 23, 2007 on a finding that she was not available for work due to personal obligations. After due notice was issued, a hearing was held by telephone on August 8, 2007. The employer participated by Shannon Jones, Training Manager. Ms. Rukgaber opted not to participate.

ISSUE:

At issue in this matter is whether Ms. Rukgaber satisfied the availability requirements of the law during the week ending June 23, 2007.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Rukgaber has been employed by Wal-Mart since April 1, 1985. The employer requested that she take the week ending June 23, 2007 off due to lack of work. Ms. Rukgaber did not ask to be laid off but did honor the employer's request. She remained available to work her usual number of full-time hours during the week ending June 23. She returned to work the following week.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that Ms. Rukgaber was laid off by Wal-Mart at the employer's initiative but remained available to work her normal schedule. Moreover, because she was on a temporary layoff, she was not required to satisfy the general availability requirements of the law, as long as she remained available to the employer that laid her off. See Iowa Code section 96.4(3), 871 IAC 24.23(41).

For the reasons stated herein, the administrative law judge concludes that Ms. Rukgaber is eligible to receive job insurance benefits for the week ending June 23, 2007.

DECISION:

The representative's decision dated July 17, 2007, reference 01, is hereby reversed. Ms. Rukgaber is eligible to receive job insurance benefits for the week ending June 23, 2007 as she was temporarily laid off due to lack of work. Benefits are allowed, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css