

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

SHAWNDA L GREEN
Claimant

APPEAL NO. 18A-UI-06200-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WALMART INC
Employer

OC: 10/01/17
Claimant: Appellant (6R)

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-26.8(1) - Withdrawal of Appeal

STATEMENT OF THE CASE:

Shawnda Green filed a late appeal from the October 31, 2017, reference 01, decision that denied benefits effective October 1, 2017, based on the Benefits Bureau deputy's conclusion that Ms. Green was at that time on approved leave of absence from employment with Walmart and, therefore, could not be deemed available for work within the meaning of the law. Based on Ms. Green's appeal from October 31, 2017 decision, a hearing was scheduled for June 21, 2018. Ms. Green registered a telephone number for the proceeding and was available for the proceeding. The employer registered a telephone number for the proceeding and was available through Margaret Neilson. At the start of the hearing, the administrative law judge engaged the parties in discussion regarding the procedural posture of the matter. The outcome of that discussion was agreement that the late appeal from the October 31, 2017, reference 01, decision would be dismissed and the matter would be remanded to the Benefits Bureau for determination of whether Ms. Green has been able to work, available for work and/or on an approved leave of absence since the additional claim that was effective May 6, 2018 and for adjudication of whether Ms. Green separated from Walmart for a reason that disqualifies her for benefits or that relieves the employer's account of liability for benefits.

FINDINGS OF FACT:

Claimant Shawnda Green is the appellant in this matter. When Ms. Green filed her appeal on June 4, 2018, her goal was to address her eligibility for unemployment insurance benefits for the period beginning May 6, 2018. However, the appeal was drafted as an appeal from the October 31, 2017, reference 01, decision that denied benefits effective October 1, 2017, based on the Benefits Bureau deputy's conclusion that Ms. Green was at that time, in October 2017, on an approved leave of absence from employment with Walmart and, therefore, could not be deemed available for work within the meaning of the law. Ms. Green had returned to the Walmart employment on October 26, 2017. Ms. Green's acquiescence in dismissal of the appeal from the October 31, 2017, reference 01, decision followed the administrative law judge's explanation of the week-by-week nature of the able and available determination. The administrative law judge explained to Ms. Green that the October 31, 2017, reference 01, decision regarding whether Ms. Green was able to work and available for work effective October 1, 2017 would have no bearing on her eligibility for benefits in connection with the

May 6, 2018 additional claim. The agreement to dismiss the appeal and remand the case is in the recorded record and occurred before any decision was entered in connection with the June 4, 2018 appeal from the October 31, 2017, reference 01, decision.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-26.8(1) provides:

(1) An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

The administrative law judge concludes that it is appropriate to dismiss the appeal from the October 31, 2017, reference 01, decision regarding whether the Ms. Green was able to work, available for work, and/or on an approved leave of absence effective October 1, 2017. The dismissal will not adversely impact either party. The administrative law judge further concludes is appropriate to remand the matter to the Benefits Bureau for adjudication of the work ability, work availability, and leave of absence issues relative to the period beginning May 6, 2018 and for adjudication of the employment separation issues. Though the October 31, 2017, reference 01, decision will not be disturbed, the reach of that decision expired in the absence of weekly claims prior to the May 6, 2018 additional claim and shall have no impact on the claimant's eligibility for benefits for the period beginning May 6, 2018.

DECISION:

The claimant's appeal from the October 31, 2017, reference 01, decision is dismissed. The October 31, 2017, reference 01, decision shall have no impact on the claimant's eligibility for benefits for the period beginning May 6, 2018. This matter is remanded to the Benefits Bureau for adjudication of the able, available and leave of absence issues for the period beginning May 6, 2018 and for adjudication of the claimant's separation from Walmart.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs