

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBIN J LEWIS
Claimant

APPEAL NO. 17A-UI-00328-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 12/04/16
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Robin Lewis (claimant) appealed a representative's January 5, 2017, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits as of December 4, 2016, because she was unable to work during that period for Wal-Mart Stores(employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 1, 2017. The claimant participated personally. The employer participated by Tom Riley, Assistant Store Manager.

ISSUE:

The issue is whether the claimant is available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant performed services for the employer from March of 2013, to November 30, 2016. The claimant had some personal issues and events in her life that caused her to be absent from work. Her supervisor told her she only had nine hours of paid time off left. The supervisor thought it would be best for the claimant to take a leave of absence. The claimant called the employer's third party attendance service and said she was on a leave of absence from December 1, 2016, to February 27, 2017. The employer considers the claimant to still be employed with the company.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

Iowa Admin. Code r. 871-24.23(10) provides:

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

When an employee requests and is granted a leave of absence, she is considered to be voluntarily unemployed. The claimant requested a leave of absence and the employer granted her request. The request was initiated by the claimant to the third party service. She is considered to be voluntarily unemployed during the period of the leave of absence. The claimant is not eligible to receive unemployment insurance benefits from December 4, 2016, because she is not able and available for work.

DECISION:

The representative's January 5, 2017, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs