

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARTIN L CASSEL
Claimant

APPEAL NO. 12A-UI-11250-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 08/12/12
Claimant: Appellant (4)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated September 14, 2012, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 15, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Kelly Cooper participated in the hearing on behalf of the employer with a witness, Josh Uhde.

ISSUES:

Did the claimant voluntarily quit employment without good cause attributable to the employer?
Did the employer terminate the claimant after he gave notice that he was quitting?

FINDINGS OF FACT:

The claimant worked full time for the employer in the meat department from October 3, 2002, to August 16, 2012.

On August 16, 2012, the claimant notified the employer that he was quitting to take a job with Hy-Vee effective August 29, 2012. Because the claimant was quitting to work for a competitor, the employer informed the claimant August 16 would be his last day.

The claimant filed a new claim for unemployment insurance benefits effective August 12, 2012, and filed weekly claims through September 1, 2012. His weekly benefit amount was \$257 and his earning limit was \$272. The claimant worked 19 hours during the week ending August 18 and had earnings of \$221.16. The claimant underreported his earnings on his weekly claim for the week ending August 18 as \$35.

On September 3, 2012, the claimant started his job working at Hy-Vee at a rate of pay of \$11.70 per hour.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.25(38) provides:

(38) Where the claimant gave the employer an advance notice of resignation which caused the employer to discharge the claimant prior to the proposed date of resignation, no disqualification shall be imposed from the last day of work until the proposed date of resignation; however, benefits will be denied effective the proposed date of resignation.

In this case, the claimant provided notice that he was quitting and his last day would be August 29, but he was not allowed to work until that date, but instead was terminated on August 16. He is eligible for benefits during the time that he was not allowed to work. He is also not subject to disqualification as of August 29, 2012, because the law states that a claimant who quits employment to accept other or better employment is not disqualified. Iowa Code § 96.5-1-a. The claimant is eligible for benefits for the weeks ending August 18, August 25, and September 1.

Iowa Code § 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

His payment for the week ending August 18 should be calculated using \$221.16 in earnings. The claimant is eligible for \$100 for the week ending August 18 [$\$257 - (\$221.16 - \$64.25) = \100].

The employer's account is subject to charge for the payment made to the claimant through September 1, 2012, but if the claimant files an additional claim for benefits in the future, the employer will be exempt from future charges under Iowa Code § 96.5-1-a.

DECISION:

The unemployment insurance decision dated September 14, 2012, reference 01, is modified in favor of the claimant. The claimant is eligible for benefits for the weeks ending August 18, August 25, and September 1, if he is otherwise eligible. The claimant is eligible for \$100 in benefits for the week ending August 18.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs