

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAMIEN G PARIS

Claimant

APPEAL NO. 08A-UI-02990-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 08/05/07 R: 04
Claimant: Respondent (4)**

Section 96.5-1 – Voluntary Quit

Section 96.5-1-a – Quit for Purpose of Accepting New or Better Employment

Section 96.6-2 – Timely Protest

STATEMENT OF THE CASE:

The employer filed an appeal from the decision of a representative dated March 18, 2008, reference 02, which held claimant eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on April 9, 2008. The claimant participated. The employer participated by Mike Siebels, Assistant Manager. Appearing as a witness for TALX UC eXpress was Brad Kerr.

ISSUES:

The issues in this matter are whether the employer filed a timely protest for the claimant's claim for benefits, whether the voluntarily quit was for reasons attributable to the employer, and whether the claimant's sole purpose for leaving employment was to accept other or better employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant last worked for this employer on February 27, 2007. Mr. Paris was employed as a sales associate on a part-time basis and was paid by the hour. The claimant quit his employment with Wal-Mart Stores in order to accept other and what he considered to be better employment with the Carl A. Nelson Construction Company. Mr. Paris did accept employment with the new company and performed services for the new employer earning wage credits. Work continued to be available to the claimant at Wal-Mart Stores at the time that he left.

The employer's protest in this matter was sent by United States Postal Service in a timely manner. Due to omission or delay by the postal service the protest was not received by Iowa Workforce Development.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes based upon the evidence in the record that the employer has established good cause for failing to file a timely protest in this matter. The protest was timely deposited with the United States Postal Service but due to delay or omissions on the part of the postal service it was not received by Iowa Workforce Development.

The evidence in the record establishes that Mr. Paris left employment in good faith for the sole purpose of accepting other or better employment with the Carl A. Nelson Construction Company and that Mr. Paris performed services for the new employer earning wages and earning wage credits. Work continued to be available to the claimant with Wal-Mart Stores Inc. at the time that he chose to leave.

Because the claimant's sole purpose for leaving his employment with Wal-Mart was to accept other or better employment and the claimant did accept employment and earn wages benefits to wage credits earned with the employer that Mr. Paris left shall be charged the Unemployment Compensation Fund.

DECISION:

The representative's decision dated March 18, 2008, reference 02, is modified. Good cause for a late filing of the employer's protest has been shown. Claimant's separation for voluntarily quitting his employment is nondisqualifying as the claimant's sole purpose for leaving was to accept other or better employment which the claimant accepted and earned wages for benefits relating to wage credits earned with Wal-Mart shall be charged to the Unemployment Compensation Fund.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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