

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

LEONARDO LEUNIS
104 N HAMLIN
MT PLEASANT IA 52641

WAL-MART STORES INC
c/o FRICK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06267-HT
OC: 05/15/05 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant, Leonardo Leunis, filed an appeal from a decision dated June 7, 2005, reference 02. The decision found him ineligible to receive unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 27, 2005. The claimant participated on his own behalf. The employer, Wal-Mart, participated by Training Coordinator Shannon Jones.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Leonardo Leunis began working for Wal-Mart on

April 28, 2004. He provided documentation of his eligibility to work in the United States and it was scheduled to expire May 13, 2005.

Training Coordinator Shannon Jones met with Mr. Leunis 30 days before the expiration date of his authorization and at the two-week mark. He assured her he had submitted the appropriate renewal paperwork to the federal government and it had been acknowledged on March 30, 2005. However, the appropriate renewal authorization had not arrived by the date the old one had expired and the claimant was separated.

As of the date of the hearing the claimant has not received his renewed authorization. He may visit the Immigration and Nationalization Service to request a renewal in person only after 90 days from the receipt of this original renewal request had been received.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is eligible for benefit. The judge concludes he is not.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

It appears Mr. Leunis did make a good faith effort to renew his work authorization in a timely manner. However, the authorization was not renewed at the time he filed his claim for unemployment benefits nor as of the date of the hearing. While this is not altogether within the control of the claimant, the fact remains he is not able to accept any work without the proper paperwork. He is therefore not eligible for benefits as he is not able to work.

DECISION:

The representative's decision of June 7, 2005, reference 02, is affirmed. Leonardo Leunis is not eligible for unemployment benefits as he is not able and available for work.

bgh/pjs