

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASHLEY E BURLESON**  
Claimant

**APPEAL NO. 07A-UI-09972-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 09/15/07 R: 12**  
**Claimant: Respondent (4-R)**

871 IAC 23.43(9)a – Relief of Charges

**STATEMENT OF THE CASE:**

The employer, Wal-Mart, filed an appeal from a decision dated October 19, 2007, reference 01. The decision found the employer's protest was not timely and allowed benefits to the claimant, Ashley Burleson. After due notice was issued, a hearing was held by telephone conference call on November 13, 2007. The claimant participated on her own behalf. The employer participated by Personnel Director Frances Smith and Assistant Manager Teresa Young. Exhibit D-1 was admitted into the record.

**ISSUE:**

The issue is whether the employer's account may be relieved of charges.

**FINDINGS OF FACT:**

Ashley Burleson filed a claim for unemployment benefits with an effective date of September 16, 2007. Notice was sent to the employer's address of record on October 3, 2007, notifying it the claimant had filed a combined wage claim in Arkansas and requested a transfer of wages. The notice further informed the employer any response must be postmarked or otherwise received by Iowa Workforce Development within ten days of the date on which the notice was mailed. The employer submitted a response until October 15, 2007. October 13, 2007, is a Saturday.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 23.43(9) provides in part:

(9) Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20, will be liable for charges for benefits paid by the out-of-state paying state, but no reimbursement so payable shall be charged against a contributory employer's account for the purpose of section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and that such charges shall not exceed the amount that

would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim....

The employer's protest was timely, as it was due on October 13, 2007, which is a Saturday. If the due date is a Saturday, Sunday or legal holiday, the party has until the next regular business day to file a protest.

**DECISION:**

The representative's decision of October 19, 2007, reference 01, is modified in favor of the appellant. The employer's protest was timely and the account cannot be charged solely on the basis of an untimely appeal. The issue of whether the claimant's separation would be grounds to relieve the employer of charges has yet to be adjudicated and should be remanded to the Claims Section for determination.

---

Bonny G. Hendricksmeier  
Administrative Law Judge

---

Decision Dated and Mailed

bgh/kjw