

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER M MCCARTHY**  
Claimant

**APPEAL NO. 11A-UI-07380-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 04/24/11**  
**Claimant: Appellant (4)**

Section 96.5(1)g – Voluntary Quit/Requalification  
871 IAC 26.8(5) – Decision on the Record

**STATEMENT OF THE CASE:**

An appeal was filed from a representative's decision dated May 24, 2011, reference 01, which concluded that Christopher McCarthy quit his employment with Wal-Mart Stores, Inc. without good cause attributable to the employer. A telephone hearing was scheduled for June 30, 2011. Based on information in Workforce Development's records, a hearing was deemed unnecessary.

**ISSUE:**

At issue in this matter is whether the decision previously entered should be affirmed.

**FINDINGS OF FACT:**

The parties were properly notified of the scheduled hearing on this appeal. The appellant did provide a telephone number at which he could be reached for the hearing. However, he has requalified for benefits and, therefore, no hearing was held.

**REASONING AND CONCLUSIONS OF LAW:**

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by

another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

The administrative law judge has carefully reviewed the evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct with respect to the separation. Mr. McCarthy has earned in excess of ten times his weekly job insurance benefit amount since the disqualifying separation from Wal-Mart Stores, Inc. Therefore, the prior decision shall be modified to allow benefits.

**DECISION:**

The unemployment insurance decision dated May 24, 2011, reference 01, is modified. The decision disqualifying the claimant from receiving benefits shall be modified to allow benefits, provided he is otherwise eligible. Wal-Mart Stores, Inc. shall not be charged for benefits paid to Mr. McCarthy as a result of the decision herein.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw