

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

LISA COCHRAN
613 N 9TH ST
GRIMES IA 50111-2202

WAL-MART STORES INC
C/O FRICK UC EXPRESS
PO BOX 283
SAINT LOUIS MO 63166-0283

Appeal Number: 06A-UI-04075-S2T
OC: 03/05/06 R: 02
Claimant: Respondent (2)

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:

Wal-Mart Stores (employer) appealed a representative's March 31, 2006 decision (reference 02) that concluded Lisa Cochran (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 1, 2006. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Kelly Meek, Assistant Store Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on December 12, 1995, as a full-time cash office associate. The employer considers 28 hours per week or more to be full-time. The claimant had no interruption in employment since she was hired until the present. In February and March 2006, the claimant's hours were reduced slightly. At all times the claimant worked 28 hours or more per week.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is still employed at the same hours and wages as her original contract for hire. For the following reasons the administrative law judge concludes she is.

871 IAC 24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a full-time worker. She is still employed in a full-time position as was agreed to at the time she was hired. The claimant is not considered unemployed. She is disqualified for being unavailable for work.

DECISION:

The representative's March 31, 2006 decision (reference 02) is reversed. The claimant is not considered partially unemployed. She is disqualified for being unavailable for work.

bas/tjc