

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

DENNIS W ANDERSEN  
PO BOX 456  
GRIMES IA 50111

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

Appeal Number: 05A-UI-08124-HT  
OC: 10/10/04 R: 02  
Claimant: Respondent (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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The employer, Wal-Mart, filed an appeal from a decision dated July 27, 2005, reference 03. The decision allowed benefits to the claimant, Dennis Andersen. After due notice was issued, a hearing was held by telephone conference call on August 24, 2005. The claimant participated on his own behalf. The employer participated by Department Manager Jeff Roth.

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: Dennis Andersen began employment with Wal-Mart on March 18, 2003. He was hired as a part-time sales associate. Mr. Andersen had indicated

he was able to work 20 hours per week as both a minimum and maximum. In September 2004 he informed the employer he would be able to work 25 hours per week.

Throughout his employment the claimant worked part time, although no minimum number of hours per week were ever guaranteed to him. In March 2005 he signed a "temporary assignment" document in which he acknowledged he was being assigned as a seasonal employee in the lawn and garden department. The document further acknowledged that when hours in this seasonal area were no longer available, he would be responsible to look for and apply for openings in other departments within the store.

Mr. Andersen was not scheduled to work after June 22, 2005. He had checked for openings within the store but none were available to him. He filed an additional claim for unemployment benefits with an effective date of June 26, 2005, and continues to check for available openings at Wal-Mart.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is eligible for benefits. The judge concludes he is.

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".

The claimant has not worked for Wal-Mart since June 22, 2005. Although he was not guaranteed any minimum number of hours, he is not working at all. He continues to check for available openings at the store and is available to work within the same parameters as he has during the course of his employment.

#### DECISION:

The representative's decision of July 27, 2005, reference 03, is affirmed. Dennis Andersen is eligible for benefits, as he is able and available for work.

bgh/kjw