

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAMES WILLITS**

Claimant

**APPEAL NO. 09A-UI-15801-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**Original Claim: 10-05-08**

**Claimant: Appellant (1)**

Section 96.6-3 - Appeals

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the October 24, 2008, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 24, 2009. The claimant participated in the hearing. The employer sent a fax indicating it would not be participating in the hearing.

**ISSUE:**

The issue is whether the Employment Appeal Board decision dated January 13, 2009, has been reversed.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant filed a claim with an effective date of October 5, 2008. He was denied benefits at the fact-finding hearing held October 24, 2008. He was denied benefits at the Appeal hearing before Administrative Law Judge James Timberland November 24, 2008. He was again denied benefits when he appealed to the Employment Appeal Board (EAB) in a decision dated January 13, 2009. He did not appeal the EAB's decision to the District Court.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes this case has been previously adjudicated and was not appealed to the District Court.

Iowa Code section 96.6-3 provides:

3. Appeals. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved

unless the in-person hearing would be impractical because of the distance between the parties to the hearing. A telephone or in-person hearing shall not be scheduled before the seventh calendar day after the parties receive notice of the hearing. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

The issue in this case is whether the January 13, 2009, EAB decision has been reversed. The only way an EAB decision can be reversed is if the losing party appeals to the District Court. In this case, there is no evidence the claimant appealed the EAB decision to the District Court so the EAB decision denying benefits stands. This case has already been adjudicated.

**DECISION:**

The October 24, 2008, reference 01, decision is affirmed. The EAB decision has not been reversed, as the claimant did not appeal that decision to the District Court. Therefore, this case has already been adjudicated and benefits are denied.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw