

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAVANNAH L FRETTO

Claimant

APPEAL NO. 08A-UI-06208-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 06/01/08 R: 04
Claimant: Respondent (2)**

Section 96.5(1) – Voluntary Quit
Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. filed an appeal from a representative's decision dated June 27, 2008, reference 01, which held that no disqualification would be imposed regarding Savannah Fretto's separation from employment. After due notice was issued, a hearing was held by telephone on July 22, 2008. The employer participated by Diane Smull, Assistant Manager. Ms. Fretto did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Fretto was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Fretto began working for Wal-Mart on November 1, 2006 and worked full time as a cashier. Her last day at work was November 14, 2007. She was absent without notice to the employer on November 15, 16, and 17. The employer did not hear from Ms. Fretto again until she came to get her paycheck on November 29.

The employer has a written policy that provides that three consecutive unreported absences will be considered a voluntary quit. Ms. Fretto received the policy at the time of hire. Continued work would have been available if she had continued reporting to work or had notified the employer of her intentions. She had not complained about any work-related matters before the separation.

Ms. Fretto filed a claim for job insurance benefits effective June 1, 2008. She has received a total of \$543.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

Ms. Fretto abandoned her job when she stopped reporting for work after November 14, 2007. As such, the separation is a voluntary quit. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who is absent from work for three days without notice in violation of a known rule is presumed to have quit without good cause attributable to the employer. See 871 IAC 24.25(4). The presumption has not been rebutted by the evidence of record. Accordingly, benefits are denied.

Ms. Fretto has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated June 27, 2008, reference 01, is hereby reversed. Ms. Fretto quit her employment with Wal-Mart for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility. Ms. Fretto has been overpaid \$543.00 in job insurance benefits.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw