

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CANDIS J LANDER**  
Claimant

**WALMART INC**  
Employer

**APPEAL 21A-UI-17472-S2-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/16/21**  
**Claimant: Respondent (2)**

Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview  
PL 116-136 – Federal Pandemic Emergency Unemployment Compensation

**STATEMENT OF THE CASE:**

The employer filed an appeal from the July 30, 2021, (reference 03) unemployment insurance decision that allowed benefits based upon her discharge. The parties were properly notified about the hearing. A telephone hearing was held on September 30, 2021. Claimant Candis Landis did not register for the hearing and did not participate. Employer Wal-Mart, Inc. participated through coach Jacklyn Bunn and was represented by Judy Berry. Employer's Exhibits 1 – 5 were admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?  
Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a lawn and garden associate from March 8, 2020, and was separated from employment on July 18, 2020.

Employer has a policy in place which requires employees to call in if they are not going to be at work. There is also a policy in place which states that if employees are a no-call/no-show for two consecutive work days, they are considered to have abandoned their jobs and are separated from employment. (Exhibit 1) Claimant was made aware of the policy. (Exhibit 3)

According to employer claimant was absent from work without notifying them for several shifts, on July 4, 5, 6, 7, 10, 12, 13, 14, 15, and 17, 2020. Claimant never returned to work. Continuing work was available for claimant and her job was not in jeopardy.

The administrative record reflects that claimant has not received any unemployment insurance benefits since filing a claim with an effective date of May 16, 2021, as her claim was locked due to another disqualifying decision. The claimant has not received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC) since filing the claim with an effective date of May 16, 2021. Employer did not participate in the fact finding interview. Employer provided a name and telephone number to IWD for the witness to participate in the interview; however, the witness was unavailable when contacted by the interviewer at the scheduled time.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code §96.5(1) provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

In this case claimant was absent from work on the following dates: July 4, 5, 6, 7, 10, 12, 13, 14, 15, and 17, 2020. Claimant knew that she was supposed to report any absences prior to her scheduled shift start time. Claimant failed to report these absences in violation of the employer's policy.

Iowa Admin. Code r. 871-24.25(4) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

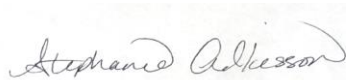
- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are denied.

Because no regular unemployment insurance benefits or FPUC benefits have been paid to the claimant since filing a claim with an effective date of May 16, 2021, the issues of overpayment of benefits and chargeability are moot.

**DECISION:**

The July 30, 2021, (reference 03) unemployment insurance decision is reversed. The claimant voluntarily left her employment without 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 benefit amount, provided she is otherwise eligible.



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Stephanie Adkisson  
Administrative Law Judge  
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October 4, 2021  
Decision Dated and Mailed

sa/mh