

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBBIE A RADCLIFFE
Claimant

APPEAL NO: 07A-UI-03464-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES, INC
Employer

**OC: 04/16/07 R: 01
Claimant: Appellant (5-R)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Debbie A. Radcliffe (claimant) appealed a representative's March 29, 2007 decision (reference 07) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Wal-Mart Stores, Inc. (employer) would not be charged because the claimant had been discharged for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 19, 2007. The claimant participated in the hearing. Doug Hink and Mike Westfall appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit her employment for reasons that qualify her to receive unemployment insurance benefits, or did the employer discharge her for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer on September 26, 2006. The claimant started working as a full-time overnight stocker. She transferred to working as a cashier on a day shift on February 3, 2007.

The claimant received authorization for a medical leave of absence for February 10 through 14, 2007. The claimant's doctor did not release the claimant to return to work by February 15, 2007. After the claimant's leave ended on February 14, the employer contacted the claimant on February 15 and left a message with her husband. The employer's message informed the claimant that she needed to submit additional paperwork from her doctor to get her leave extended. If the claimant did not submit the additional documentation by February 18, the employer would have to terminate her employment.

The claimant did not return to work after February 14. When the claimant did not submit more paperwork to extend her leave beyond February 14, the employer concluded she abandoned her job. The employer no longer considered the claimant an employee as of February 27, 2007.

The claimant's doctor released her to return to work on February 28, 2007. The claimant did not contact the employer about returning to work. The claimant understood the employer would terminate her if she did not have her medical papers returned to the employer by a certain date.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment for reasons that do not qualify her to receive unemployment insurance benefits, or an employer discharges her for reasons constituting work-connected misconduct. Iowa Code sections 96.5-1, 2-a.

Whether the claimant quit or was discharged, in this case, centers around the claimant's credibility. The claimant testified she thought her doctor faxed the requested documentation to the employer by the date the employer wanted the paperwork. The claimant did not verify this assumption by contacting her doctor or the employer. The employer did not receive any requested paperwork from the claimant's doctor. If the claimant assumed her doctor faxed the necessary paperwork to the employer, it is difficult to understand why she thought she had been terminated after her doctor released her to return to work on February 28 when she did not contact the employer. The claimant contradicted herself. As a result, her testimony is not credible. The employer's version of the events that the claimant failed to return to work after February 14, 2007, must be given more weight than the claimant's testimony.

A preponderance of the credible evidence establishes the claimant abandoned her employment as of February 25, 2007. Abandoning employment amounts to voluntarily quitting. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive unemployment insurance benefits. Iowa Code section 96.6-2.

The claimant may have had personal reasons for abandoning her employment. The evidence does not establish that the claimant quit her employment for reasons that qualify her to receive unemployment insurance benefits. Based on the reasons for her employment separation, the claimant is disqualified from receiving benefits as of February 25, 2007.

An issue of whether the claimant is able to and available for work from February 10 through 24, 2007, is remanded to the Claims Section to investigate and issue a written decision.

DECISION:

The representative's March 29, 2007 decision (reference 07) is modified but the modification has no legal consequence. The claimant initiated her employment separation by abandoning her employment or voluntarily quitting for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of February 25, 2007. This disqualification continues until she has been

paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged. An issue of whether the claimant is able to and available for work from February 10 through 24, 2007, is remanded to the Claims Section to investigate and issue a written decision.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs