

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CRAIG A CARTER**  
Claimant

**WALMART INC**  
Employer

**APPEAL 21A-UI-09022-AR-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/2020  
Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On March 31, 2021, claimant, Craig A. Carter, filed an appeal from the March 23, 2021, reference 03, unemployment insurance decision that denied benefits based upon the determination that claimant quit his employment with the employer, Walmart Inc., without good cause attributable to the employer. The parties were properly notified about the hearing held by telephone on May 27, 2021. The claimant participated personally. The employer did not participate. Chief Administrative Law Judge Nicole Merrill observed the hearing, but did not participate.

**ISSUE:**

Did voluntarily quit his job with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a case lot order filler beginning in May 2020, and was separated from employment on December 2, 2020, when he resigned.

In early 2020, claimant began experiencing back pain. He went out on a medical leave of absence in June or July 2020, and never returned to work thereafter. In November 2020, he was diagnosed via MRI with a herniated disc. Claimant's pain did not originate at work, but was exacerbated by work. His doctor never told him explicitly that he could not continue working at the employer. She told claimant that she generally left such decisions to her patients and their employers, because they knew the work and available accommodations best. However, when claimant inquired about available accommodations, he was told there was little the employer could offer because of the nature of the work. Claimant did not file a workers' compensation claim with the employer with respect to the back injury.

On December 2, 2020, claimant emailed his supervisor and resigned his employment. In the resignation email, claimant told his supervisor that he was resigning because of his back injury.

## 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)d 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. But the individual shall not be disqualified if the department finds that:

d. The individual left employment because of illness, injury or pregnancy upon the advice of a licensed and practicing physician, and upon knowledge of the necessity for absence immediately notified the employer, or the employer consented to the absence, and after recovering from the illness, injury or pregnancy, when recovery was certified by a licensed and practicing physician, the individual returned to the employer and offered to perform services and the individual's regular work or comparable suitable work was not available, if so found by the department, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871—24.25(35) 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 section 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 section 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:

(35) The claimant left because of illness or injury which was not caused or aggravated by the employment or pregnancy and failed to:

- (a) Obtain the advice of a licensed and practicing physician;
- (b) Obtain certification of release for work from a licensed and practicing physician;
- (c) Return to the employer and offer services upon recovery and certification for work by a licensed and practicing physician; or
- (d) Fully recover so that the claimant could perform all of the duties of the job.

The court in *Gilmore v. Emp't Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that:

"Insofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871—24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Claimant felt there was no option but to resign his position when his back pain prohibited him from lifting and engaging in other activities necessary for performing warehouse work at the employer. He spoke to his doctor about his symptoms, and received a diagnosis. He also informed his supervisor of the issue, and worked intermittently with the supervisor to try to find an accommodation to allow him to continue working. He never received a medical release to return to work.

Claimant has not established that his medical condition was work related, or that his treating physician advised him to quit the job. While claimant's leaving may have been based on good personal reasons, it was not for good cause attributable to the employer according to Iowa law. Benefits are denied.

**DECISION:**

The March 23, 2021, (reference 03) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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Alexis D. Rowe  
Administrative Law Judge

June 14, 2021  
Decision Dated and Mailed

ar/kmj