

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICKIE D REGUR

Claimant

APPEAL NO. 13A-UI-06709-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 05/12/13

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated May 30, 2013, reference 01, which denied unemployment insurance benefits finding that he voluntarily quit work but the quitting was not caused by the employer. After due notice was provided, a telephone hearing was held on July 10, 2013. The claimant participated. The employer participated by Ms. Susan Murphy, Assistant Manager and Ms. Wendy Pearson, Personnel Manager.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Rickie Regur was employed by Wal-Mart Stores from June 4, 2008 until May 11, 2013 when he left employment without advance notice. Mr. Regur was employed to work as a full-time sales associate in the company's garden department and was paid by the hour. Mr. Daniel McCellan was the assistant manager over the garden department.

Mr. Regur left his employment with Wal-Mart Stores on the morning of May 11, 2013 because his wife, who was also employed the company in the garden department, was temporarily assigned to a different department due to staffing needs. Mr. Regur felt that the temporary re-assignment of his wife would leave him without sufficient help in the garden department. Mr. Regur had a number of boxes to unload that required two workers to do so. Although the claimant could have put off unloading the heavier boxes until later, Mr. Regur chose to perform those duties without assistance because he considered himself by nature to be a hard worker. Mr. Regur had become generally dissatisfied because he felt at times there was not sufficient help in the department. Although the claimant was aware that he could take his concerns up the chain of command, Mr. Regur did not do so. Prior to leaving employment he did not complain to the employer about his work or the circumstances. The employer thus did not know that Mr. Regur was dissatisfied prior to his leaving. Mr. Regur quit employment at the same time that his wife also did so that day.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 24.25(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

For the reasons that follow the administrative law judge concludes the claimant voluntarily left employment without good cause attributable to the employer.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

The evidence in the record establishes that Mr. Regur had become generally dissatisfied with a number of aspects of his job in the garden department. Specifically the claimant felt that he was not given sufficient help to unload boxes or to be utilized as a "flagger" when necessary.

Prior to leaving employment, however, the claimant did not complain to the employer of these circumstances or to indicate that he would quit if the circumstances were not changed. The claimant's dissatisfaction with his employment was heightened on May 11, 2013 when his wife was temporarily assigned from the garden department to work in a different department due to staffing needs. The claimant left employment that day in conjunction with his wife's quit.

While the claimant's reasons for leaving may have been good from his personal viewpoint, they were not good-cause reasons attributable to the employer. Mr. Regur did not give adequate notice to the employer of the reasons for quitting prior to leaving employment. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated May 30, 2013, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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