

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TOM L ROHRBAUGH
Claimant

APPEAL NO: 11A-UI-15586-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 11/06/11
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's December 1, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. On December 27, the employer's representative informed the Appeals Section that the employer did not plan to participate at the January 4 hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge finds the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer full-time in December 2008. When the claimant gave the employer an August 29, 2009 work restriction that he could return to work but had to be excused for one 10-minute rest period per hour, the employer gave the claimant a stool to sit on. The claimant worked as a door greeter and decided when he could or could not sit. There were times he could not get the 10-minute break every hour, because of the customers that came to the store that he needed to greet.

When the claimant started working, he indicated he was available to work at 6 a.m. on Saturday morning. After the claimant had worked for a while, he asked to be scheduled at 7 a.m. instead of 6 a.m. The claimant was the only door greeter scheduled at this time. The employer did not change the claimant's work schedule.

The claimant gave the employer a two-week notice that his last day of work would be October 7, 2011. The claimant resigned because he could no longer tolerate Iowa's cold weather. The claimant worked until the effective date of his resignation and then moved to Missouri, where it is warmer.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. Iowa Code § 96.6(2).

The claimant asserted his work restriction about taking a ten-minute break or rest every hour did not change since he received this restriction in August 2009. The employer gave the claimant a stool to sit on to accommodate this restriction. The claimant determined when he could not sit on the stool and rest. Even though there may have been times the claimant did not sit or rest for 10 minutes every hour, he admitted that even if he had rested for ten minutes every hour, he still would have resigned so he could move to a warmer climate. The claimant quit to move to a warmer climate.

The law presumes a claimant quits without good cause when he leaves a job to move to a different locality. 871 IAC 24.25(2). The claimant established personal reasons for quitting, but his reasons do not qualify him to receive benefits. As of November 6, 2011, the claimant is not qualified to receive benefits.

DECISION:

The representative's December 1, 2011 determination (reference 01) is affirmed. The claimant voluntarily quit his employment for compelling personal reasons, but these reasons do not qualify the claimant to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of November 6, 2011. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw