

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

MARVIN M MONDIE
Claimant

WALMART INC
Employer

APPEAL 23A-UI-01666-LJ

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/08/23
Claimant: Appellant (2)**

Iowa Coe § 96.5(1) – Voluntary Quit from Employment
Iowa Admin Code r. 871-24.26(4) – Quit Due to Intolerable or Detrimental Working Conditions

STATEMENT OF THE CASE:

On February 17, 2023, claimant Marvin M. Mondie filed an appeal from the February 15, 2023 (reference 01) unemployment insurance decision that denied benefits based on a determination that he quit employment with Walmart Inc. due to dissatisfaction with work conditions. The parties were properly notified of the hearing. An in-person hearing was held in Cedar Rapids, Iowa at 10:00 a.m. on Tuesday, March 21, 2023. The claimant, Marvin M. Mondie, participated. The employer did not appear for the hearing. No exhibits were admitted into the hearing record.

ISSUE:

Did the claimant quit employment with good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Walmart Inc. on October 10, 2022. He worked full-time hours for the employer as the head of the custodial department on the overnight shift. Claimant last reported to work on January 2, 2023. After that date, he was scheduled to work but did not report for his scheduled shifts. When HR reached out to him, he told them he quit.

Claimant came to the employer from Amazon, where he managed a large team of employees. When he arrived at this position, he participated in an orientation session, where he sat with both other new members of leadership and new associates. This was the only explanation claimant ever received of rules and procedures. He never received a clear understanding of his authority to instruct and direct his team or his level of involvement with upper management.

The final incident leading claimant to quit his employment involved a member of claimant's team, Shane. Claimant had given Shane a work directive, and Shane ignored the directive. Claimant then pleaded with him to complete the task, but Shane continued to not follow instructions. Finally, claimant told Shane he simply had to complete the task. Shane responded, "I don't have to listen to you," and he walked off. When claimant reported the incident to Marcus (who ran the overnight shift), Marcus did nothing.

Claimant had difficulty dealing with Shane throughout his employment. Shane repeatedly harassed him and told him, "Go back to Amazon!" Shane also called claimant lazy, made denigrating comments about him to their coworkers, yelled at him, and said he (Shane) could do his job without claimant's supervision. Claimant reported these incidents to Marcus, but the situation did not improve. Shane would refuse to perform the work claimant assigned to him, and claimant would report that to Marcus as well. Marcus had the authority to formally discipline employees, but Marcus never disciplined Shane. As the person in charge of the overnight custodial team, claimant was ultimately held responsible for any work that did not get accomplished on the shift. Shane not performing his tasks as assigned would lead to claimant getting in trouble or called out by upper management when they walked through the store in the morning.

In early December, Shane broke into the general manager's office and wrote on the white board: "I don't like anyone on my team; I'm the only one who does any work." The employer investigated and determined Shane was the culprit. After this, a member of management met with claimant and Shane, issued Shane a write up, and told Shane that he was free to leave if he did not want to complete his work as assigned. The following day, claimant came into work and walked through the store to identify areas that needed cleaning attention, as was his standard routine. Shane was also in the store that evening. He was wearing a black skull cap and a black hoodie, and he followed claimant through the entire store. Shane only stopped following him when claimant began walking to Marcus's office.

After this incident, claimant had little further interaction with Shane. Claimant just stopped asking him to perform work on a regular basis, and Shane continued not performing his job duties.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was with good cause attributable to the employer.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

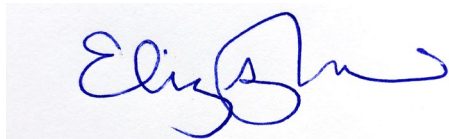
A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment 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).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

In this case, claimant had one primary reason for leaving his employment. He was subjected to continual harassment and disrespect by a coworker/subordinate, Shane, and this affected not just his mental state at work but his ability to perform his job and upper management's assessment of his performance. Claimant was never given clear direction on whether he had any authority over Shane, and no other manager with the authority to discipline Shane was exercising that authority in any effective manner. Claimant was stalked through the store, he was repeatedly challenged and disregarded, and after months of this situation continuing, he had no choice but to quit. The average employee in claimant's situation certainly would have felt similarly. I find claimant quit with good cause attributable to his employer, and benefits must be allowed.

DECISION:

The February 15, 2023 (reference 01) unemployment insurance decision is reversed. Claimant quit the employment with good cause attributable to the employer. Benefits are allowed, provided he is otherwise eligible. Any benefits claimed and withheld on this basis must be paid to him.



Elizabeth A. Johnson
Administrative Law Judge

March 24, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.