

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MARIANNE R MEISTER
315 – 6TH AVE SE
LE MARS IA 51031-1755

WAL-MART STORES INC
C/O TALX UC EXPRESS
P O BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-08910-JTT
OC: 07/17/05 R: 01
Claimant: Appellant (1-R)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Marianne Meister filed a timely appeal from the August 17, 2005, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on September 15, 2005. Ms. Meister participated. Assistant Manager Bethany Strawn represented Wal-Mart and presented additional testimony through Customer Service Manager Sheila Yamada. Exhibit One was received into evidence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Marianne Meister was employed by Wal-Mart as a part-time associate from June 2004 until May 21, 2005, when she ceased appearing for work due to perceived intolerable and/or detrimental working conditions. On May 28, Ms. Meister submitted a resignation letter, in which

she asserted she was resigning because she was “unable to work with the concentration of chemicals in the air.” The chemicals to which Ms. Meister was referring were the chemicals contained in garden products that passed through her checkout lane. In addition, Ms. Meister asserted that Wal-Mart was spraying chemicals on the plants it sells and that these chemicals were also impacting her health. Ms. Meister had worked as a cashier at Wal-Mart for almost a year before she first asserted that chemicals in the environment were impacting her health. Contrary to Ms. Meister’s belief, Wal-Mart does not spray the plants it sells and does not otherwise utilize pesticides within the store. Whatever health problems Ms. Meister was experiencing were not attributable to the employment. Ms. Meister provided no medical documentation in support of her decision to quit. No medical professional had advised Ms. Meister to quit the employment.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Meister quit the employment for good cause attributable to the employer. It does not.

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.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.25(4). However, if a claimant quit due to dissatisfaction with the work environment, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21).

Based on the evidence in the record, the administrative law judge can find no basis in fact for Ms. Meister’s assertion that chemicals in the work environment prompted her to quit the employment. The administrative law judge concludes that Ms. Meister’s voluntary quit was without good cause attributable to the employer. The employer’s account shall not be assessed for benefits paid to Ms. Meister.

The hearing notice included the issue of whether Ms. Meister is able and available for employment. A person who is otherwise eligible for benefits must demonstrate that she is able and available for employment, as well as actively and earnestly seeking employment. See Iowa Code section 96.4(3). The weight of the evidence in the record indicates that Ms. Meister is able and available for employment.

The matter is remanded for redetermination of Ms. Meister’s eligibility for reduced benefits based on base period wage credits she may have earned from employers other than Wal-Mart.

DECISION:

The Agency representative’s August 17, 2005, reference 01, decision is affirmed. The claimant voluntarily quit her employment without good cause attributable to the employer. The employer’s account will not be charged for benefits paid to the claimant. The matter is remanded for redetermination of the claimant’s eligibility for reduced benefits based on base period wage credits she may have earned from employers other than Wal-Mart.

jt/kjw