

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER JONES

Claimant

APPEAL NO: 09A-UI-05640-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 03-01-09

Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the March 25, 2009, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 6, 2009. The claimant participated in the hearing. Brent Varner, Co-Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as an accounting associate from March 31, 2008 to February 10, 2009 when she voluntarily quit her employment. The employer issued her a written warning for five unexcused absences over an extended period of time. However, the claimant had a doctor's excuse for every day she missed because she broke her leg December 10, 2008. She missed work December 11 and 12, 2008, because she was unable to walk. She had requested additional time off work to get her cast removed and her request was approved by Co-Manager Andrew. Another assistant manager subsequently issued her the warning and said the absences were not approved because the person who had given the approval did not have the authority to grant time off work. The claimant was upset and tried to talk to a different co-manager but nothing was resolved. She tried to contact the district manager several times but was unable to reach him. The next unexcused absence could result in her termination and the claimant did not want to take the chance she would be terminated as she had never been terminated from a job. She was under the impression that she was going to be terminated due to attendance and consequently quit her job.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

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.

The claimant voluntarily quit because she did not want to be discharged. A member of management approved her time off for medical reasons and another member of management subsequently issued her a written warning for the same absences. The absences were properly reported and due to illness but the warning put the claimant's job in jeopardy. It is not necessary to show that the employer acted negligently or in bad faith to show that an employee left with good cause attributable to the employer. Good cause attributable to the employer can exist even though the employer may be free from all negligence or wrongdoing in connection therewith. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). The claimant is considered to have voluntarily left her employment with good cause attributable to the employer. Benefits are allowed.

DECISION:

The March 25, 2009, reference 01, decision is affirmed. The claimant voluntarily quit her employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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