

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ANNA M LUNDY**  
Claimant

**WALMART INC**  
Employer

**APPEAL 21A-UI-10159-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/07/21**  
**Claimant: Appellant (1)**

Iowa Code §96.5(2)a-Discharge/Misconduct  
Iowa Code §96.5(1)- Voluntary Quit  
Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On April 10, 2021, the claimant/appellant filed an appeal from the March 31, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant voluntarily quitting by failing to report to work three days in a row and not notifying employer. The parties were properly notified about the hearing. A telephone hearing was held on June 24, 2021. Claimant personally participated at the hearing. Employer participated through Human Resource Manager, Molly Sengmany.

**ISSUES:**

Was the separation a layoff, discharge for misconduct, or voluntary quit without good cause?

Is the claimant able to work, available for work, and actively and earnestly seeking work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on March 17, 2007 and then left the employer and returned to work for it on June 20, 2015. Claimant last worked as a full-time stocker. Claimant was separated from employment on March 9, 2021, when she verbally resigned.

Over the course of her employment claimant had problems with her co-workers and superiors. Claimant was subject to name calling. Her co-worker would call her downs syndrome, special needs, and would tell her to “move her fat ass.” Claimant complained to her superiors and the behavior would stop for a period of time. One of her coaches, Ms. North, would talk harshly to the claimant. Claimant complained the coach did not properly train her for different job duties. In particular the claimant was told to assist a client with a watch in the jewelry department. The

**ONLINE RESOURCES:**

UI law and administrative rules: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>  
UI Benefits Handbook: <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-benefits-handbook-guide-unemployment-insurance-benefits>  
Handbook for Employers and forms: <https://www.iowaworkforcedevelopment.gov/employerforms>  
Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>  
National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

claimant had not been trained in the jewelry department. Claimant's coach told her harshly to "figure it out." There was another time the claimant could not find a particular shirt and the same coach would not help her find it. This same coach changed the claimant's hours but did not change the hours in the computer system. This caused the system to start accumulating attendance points against the claimant so that she could be terminated. Claimant spoke to her team lead about the issue but it was not resolved. Due to the conflict claimant became stressed.

Claimant began experiencing heart pain due to the stress that she was enduring at work. On March 8, 2021, claimant went to her doctor for her chest pain and her doctor informed her that she needed to find another job. Claimant's physician gave her a doctor's note but she did not provide it to the employer and she did not submit it during the hearing. The doctor recommended that she be changed to another job due to the stress that she was experiencing. Claimant did not ask for an accommodation for her condition and did not ask to be transferred to another position. Claimant did not tell the employer that she would quit unless the issue was resolved. On March 9, 2021, claimant went to work and turned in her badge, discount card, and uniform and told them she was quitting because she could not handle the stress.

Claimant was able to work and available to work beginning on March 9, 2021. Claimant's physician did not limit her ability to work. Her physician recommended she not work in the same position with the employer that she was working on March 8, 2021 because it was causing her stress. After her resignation she actively looked for a job. Claimant obtained a new job and began that position on April 7, 2021.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Admin. Code r. 871-24.26(6)b 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:

(6) Separation because of illness, injury, or pregnancy.

b. Employment related separation. The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

In 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement added to rule 871-24.26(6)(b), the provision addressing work-related health problems. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005). A claimant must inform the employer that

the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. See Iowa Admin. Code r. 871-24.26(6)b. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available. *Id.* Iowa Code § 216.6 (previously 601A.6) requires employers to make "reasonable accommodations" for employees with disabilities. Reasonable accommodation is required only to the extent that refusal to provide some accommodation would be discrimination itself. Reasonableness is a flexible standard measured in terms of an employee's needs and desires and by economic and other realities faced by the employer. *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719 (Iowa 1993). See also *Foods, Inc. v. Iowa Civil Rights Comm'n*, 318 N.W.2d 162 (Iowa 1982) and *Cerro Gordo Care Facility v. Iowa Civil Rights Comm'n*, 401 N.W.2d 192 (Iowa 1987).

The constant conflict stressed the claimant to the point she was making herself have chest pains. Claimant testified she was having problems but she did not provide competent evidence showing adequate health reasons for her terminating employment. Furthermore, the claimant did not inform the employer prior to her quitting that she would quit unless the problem was resolved or an accommodation was made. Claimant did not ask to be transferred to another position. Since claimant did not follow the requirements of Iowa Admin. Code r. 871-24.26(6)b the voluntary quit was not good cause attributable to the employer.

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 had an intention to quit and carried out that intention by tendering her verbal resignation and leaving. As such, 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).

Iowa Admin. Code r. 871-24.25(21) 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 § 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 § 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:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.25(22) 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

§ 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 § 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:

(22) The claimant left because of a personality conflict with the supervisor.

Claimant determined she could no longer work with Ms. North. The constant conflict put stress on the claimant. The Claimant ultimately left because she was dissatisfied with the work environment and the conflict with her supervisor, coach North. Although her leaving was for good personal reasons, these reasons do not make her eligible for unemployment benefits under Iowa law. Benefits are denied.

Since the claimant is not eligible for benefits the able to work and available for work issue is moot.

**DECISION:**

The March 31, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily quit employment without good cause attributable to the employer. Unemployment insurance benefits shall be withheld in regards to this employer until such time as claimant is deemed eligible.

Since the claimant is not eligible for benefits the able to work and available for work issue is moot.



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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

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July 7, 2021  
Decision Dated and Mailed

cs/lj

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

