

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PRINCE P GBANE

Claimant

APPEAL NO: 15A-UI-07637-LDT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 05/31/15

Claimant: Respondent (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Wal-Mart Stores, Inc. (employer) appealed a representative's June 24, 2015 decision (reference 01) that concluded Prince P. Gbane (claimant) was qualified to receive unemployment insurance benefits after a separation from employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 3, 2015. A review of the Appeals Bureau's conference call system indicates that the claimant failed to respond to the hearing notice and provide a telephone number at which he could be reached for the hearing and did not participate in the hearing. Heather Snyder appeared on the employer's behalf. One other witness, Lee Fogo, was available on behalf of the employer but did not testify. Based on the evidence, the arguments of the employer, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

FINDINGS OF FACT:

The claimant started working for the employer on October 25, 2014. He worked full time as a merchandise supervisor at the employer's West Des Moines, Iowa store. His last day of work was May 18, 2015.

The claimant called in absences on May 20, May 21, May 22, May 23, and May 25. Pursuant to the employer's policies regarding extended absences, on May 26 the employer sent the claimant a certified letter, received May 28, advising him that he needed to contact a member of management and seek a leave of absence within seven days of the date of the letter, which was June 2, 2015.

Even before he received the letter, the claimant began having no-call, no-show absences. He was a no-call, no-show on May 27, May 28, May 29, and May 30. The employer considered the claimant a voluntary quit by job abandonment on June 2.

On a day between June 8 and June 12 the claimant came into the office of Snyder, the personnel coordinator who had sent the May 26 letter, asking to discuss the letter. He indicated that he had not contacted her until that day because he was “too busy,” and that there were “things going on.” He did not specify what those “things” were, and when Snyder indicated that the employer already considered the employment to be ended, he left.

The claimant established a claim for unemployment insurance benefits effective May 31, 2015. The claimant has received no unemployment insurance benefits since the separation from employment.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit his employment, he is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1.

Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). The intent to quit can be inferred in certain circumstances. For example, failing to report and perform duties as assigned is considered to be a voluntary quit. Rule 871 IAC 24.25(27). The claimant did exhibit the intent to quit and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless he voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. Quitting due to compelling personal reasons, where the period of absence did not exceed ten working days, and where the employer then declined to allow the employee to return could be considered attributable to the employer, but here the claimant has not established that his reason for absence was “compelling.” Rule 871 IAC 24.25(20). Further, the period of absence exceeded ten working days. *Id.* The claimant has not satisfied his burden. Benefits are denied.

DECISION:

The representative’s June 24, 2015 decision (reference 01) is reversed. The claimant voluntarily left his employment without good cause attributable to the employer. As of May 31, 2015, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs