

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERITA M JETT

Claimant

APPEAL NO. 08A-UI-07490-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 06/15/08 R: 12
Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Leaving
871 IAC 24.26(1) – Voluntary Leaving – Change in Contract of Hire

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 18, 2008, reference 02, decision that allowed benefits based upon a leaving of part-time employment and adjusted her weekly benefit amount (WBA) and maximum benefit amount (MBA). After due notice was issued, a telephone conference hearing was held on September 3, 2008. Claimant participated. Employer participated through Aaron Feltmeyer.

ISSUE:

The issue is whether claimant quit the employment without good cause attributable to the employer.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant was employed as a part-time cashier from November 2007 until August 4, 2008, when she quit. Her last day of work was January 3, 2008, when she transferred back to a Chicago Wal-Mart and took a personal leave of absence from the Burlington, Iowa, store to stay with her grandmother and great-grandmother. She stayed awhile after her great-grandmother died and then returned to Iowa on or about June 22, 2008. While working in the Burlington store, she had a family member available to care for her child and worked as late as 9 p.m. She worked no later than 7 p.m. in the Chicago store. When she was ready to leave Chicago and return to Iowa, she relied upon the Chicago store's representation that she must indicate she was available to work until 10 p.m. in order to transfer back to Iowa and that given that concession, her transfer had been approved. When she got to Iowa, the Burlington store told her there was no evidence of her transfer request in the system and she put in her request again. She was available to work as of June 22 even though she was helping family in Oakville, Iowa (25 miles from her residence in Wapello) clean up from flooding. The transfer was not approved until August 4 and when she returned to work on that date, employer had scheduled her to work until 10 p.m., which meant she would require child care until 11 p.m. and there was none available in the area. The Burlington store was not willing to abide by the

Chicago store's representation that it would work with her to alter her hours. Her family member had since found other employment and was no longer able to care for claimant's child.

REASONING AND CONCLUSIONS OF LAW:

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

Iowa Code § 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.

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

Inasmuch as the Chicago store misrepresented the transfer, the hours she would be required to work and that she could adjust her hours after the transfer, the change of the terms of hire is considered substantial. Thus, the separation was with good cause attributable to the employer. Benefits are allowed.

DECISION:

The August 18, 2008, reference 02, decision is modified in favor of the appellant. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw