

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY SULLIVAN
Claimant

APPEAL NO: 10A-UI-09621-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05-16-10
Claimant: Appellant (1)

Iowa Code Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 23, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 25, 2010. The claimant participated in the hearing. Carrie Gates, Assistant Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time stock associate for Wal-Mart from January 29, 2009 to April 7, 2010. Her job and store policy requires open availability and the claimant limited her availability and as a result the employer told her she needed to open up her availability. The claimant had difficulty working on Saturdays and Sundays because of transportation problems and felt her work schedule interfered with the visitation schedule with her children. The assistant manager knew the claimant was upset Wednesday, April 7, 2010, but the claimant was unwilling to talk about what was bothering her. The manager offered the claimant an opportunity to speak to upper management through the employer's open door policy but the claimant declined and walked off the job.

REASONING AND CONCLUSIONS OF LAW:

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit and acted to carry it out when she discussed the problem with her manager April 7, 2010, and then walked off the job. She was upset that the employer needed her to open up her availability. The claimant has the burden to

prove that her leaving was for good cause attributable to the employer as defined by Iowa law. She has not met that burden in this case. Therefore, benefits are denied.

DECISION:

The unemployment insurance decision dated June 23, 2010, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs