

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY M CHAPIN
Claimant

APPEAL NO. 16A-UI-10684-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WALMART
Employer

OC: 04/24/16
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated September 28, 2016, reference 05, which denied unemployment insurance benefits finding the claimant voluntarily quit work with Walmart stores on September 11, 2016 for personal reasons. After due notice was provided, a telephone hearing was held on October 26, 2016. Claimant participated. Although duly notified, the employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Cindy Chapin was employed by Walmart stores from September 1, 2016 until September 11, 2016 when she voluntarily left employment. Ms. Chapin was hired in the position of full-time cashier working in the facility's garden department. Ms. Chapin was paid by the hour.

Ms. Chapin concluded after working a number of days as a Walmart cashier, that she did not have the ability to perform the cashier duties. Because the claimant was new at the job, she had not memorized the various transaction codes that needed to be used as she performed her cashier duties. Ms. Chapin also felt pressured because the garden center usually had a number of customers waiting in line, and they were at times impatient. The employer had provided a code sheet near the cash registers for use by cashiers listing the various sales codes that were needed. Although Ms. Chapin felt that she did not have the ability to do the cashier job, the employer had not indicated to Ms. Chapin in any manner that her performance as a new cashier was substandard.

Based upon general advice that had been given to her by an IWD representative, Ms. Chapin requested a change to a different job position from Walmart before she left her employment.

Ms. Chapin was offered the only other position open at that time, but declined to accept the position as a night-time stocker because of safety concerns in her neighborhood. Ms. Chapin has no public transportation that runs near her residence and personally felt that it was unsafe to walk to work in the early morning hours because of crime in the vicinity. Ms. Chapin left her employment with Walmart stores effective September 11, 2016.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that the reasons that the claimant quit employment were attributable to the employer. It does not.

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.

Iowa Admin. Code r. 871-24.25(33) and (12) 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 section 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 section 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:

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

(12) The claimant left without notice during a mutually agreed upon trial period of employment.

In this case the claimant left her employment on Sunday, September 11, 2016 without advanced notice because she found her new job as a cashier to be stressful believing that she did not have the ability to perform the duties as a cashier. Ms. Chapin had not yet learned company sales code numbers but had the use of a sheet provided by the company for that purpose. Although Ms. Chapin was dissatisfied with her performance as a new cashier, the employer had not indicated any dissatisfaction with Ms. Chapin's progress and had not indicated to the claimant that her job was in jeopardy. The evidence also does not establish that the parties specifically entered into a trial period of employment agreement when the claimant was hired.

Before leaving her employment September 11, 2016, the claimant did act reasonably in attempting to secure a transfer to other work within the company. Ms. Chapin left her employment as a cashier when she chose not to accept another position that was available to her because of her personal concerns about the working hours and her safety walking to work.

Ms. Chapin was not required to take the other position and could have remained in the position of cashier but chose not to remain employed.

While Ms. Chapin's reasons for leaving were undoubtedly good cause reasons from her personal viewpoint, they were not good cause reasons that were attributable to the employer. Claimant had accepted the position of cashier and the employer was apparently satisfied with her performance as she learned the job. Accordingly, the claimant is disqualified for unemployment insurance benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

DECISION:

The representative's decision dated September 28, 2016, reference 05, is affirmed. Claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs