

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA K PITTSER**

Claimant

**APPEAL NO: 10A-UI-05669-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 03/21/10**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

Linda K. Pittser (claimant) appealed a representative's April 9, 2010 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Wal-Mart Stores, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 4, 2010. The claimant participated in the hearing. The employer's representative received the hearing notice and responded by calling the Appeals Section on May 26, 2010. The representative indicated that Andy Smolenski would be available to participate on behalf of the employer at the scheduled time for the hearing at a specified telephone number. However, when the administrative law judge called that number at the scheduled time for the hearing, Mr. Smolenski was not available; therefore, the employer did not participate in the hearing. Based on the evidence, the arguments of the claimant, 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 September 24, 2003. Since about March of 2008 she worked full time, about 60 percent as an accounting office associate and about 40 percent as an assistant in the deli. Her last day of work was March 4, 2010. She voluntarily quit as of that date. Her reason for quitting was verbal abuse and harassment from her manager in the deli.

The deli manager had been making very disparaging remarks to the claimant in the past several weeks. About a week prior to March 4 the claimant had complained to the store's assistant manager, who agreed to speak to the deli manager. In fact, he did indeed speak to the deli manager on March 3. However, when the claimant came in for work at about 5:00 a.m. on March 4 the deli manager negatively referred to the claimant's complaint about her. When it was time for the claimant's break at about 8:15 a.m., the deli manager refused to allow the claimant to go for her break. The claimant reported this to the store's assistant manager at

about 8:30 a.m., and he indicated he would speak to the deli manager, but he did not at that time. When the claimant was finally allowed to go on her lunch break at approximately 9:30 a.m., she told a store co manager that she was quitting, and left.

**REASONING AND CONCLUSIONS OF LAW:**

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Intolerable or detrimental working conditions are good cause for quitting attributable to the employer. 871 IAC 24.26(4). The claimant has demonstrated that a reasonable person would find the employer's work environment detrimental or intolerable in that the apparent retaliatory behavior by the deli manager was permitted and not promptly addressed. O'Brien v. EAB, 494 N.W.2d 660 (Iowa 1993); Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (FL App. 1973).

**DECISION:**

The representative's April 9, 2010 decision (reference 01) is reversed. The claimant voluntarily quit for good cause attributable to the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs