

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SCOTT A BUTT
Claimant

WAL-MART STORES INC
Employer

APPEAL 16A-UI-05137-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/14/16
Claimant: Appellant (4)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Admin. Code r. 871-24.27 – Voluntary Quitting – Part-time Employment

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the April 25, 2016, (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting his employment without good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on May 17, 2016. Claimant, Scott A. Butt, participated personally. Employer, Wal-Mart Stores Inc., did not participate.

ISSUES:

Did claimant voluntarily quit the employment with good cause attributable to employer?

Was the claimant discharged for disqualifying job-related misconduct?

Is the claimant monetarily eligible for benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time in the Lawn and Garden Department from April 1, 2016 until April 6, 2016. Claimant's direct supervisor was a woman named Nicole.

When claimant interviewed he indicated that he was seeking a part-time job. He did not mention any restrictions on hours specifically during the interview process. When he first started he was given the schedule and he learned he was scheduled for 31 hours. He discussed with Nicole and Diane, who was the person who hired him, that he could not work 31 hours but need less hours.

He could not work that many hours because he was receiving Social Security Disability Insurance ("SSDI") benefits and if he earned too much money he would not be eligible for these benefits. Claimant would rather keep his SSDI benefits than work the assigned hours that the employer gave to him. He addressed these concerns with the employer and each person stated

there was nothing they could do and those hours were considered part-time employment for their purposes. Claimant then quit his employment because he did not want to become ineligible for his SSDI benefits. He told Diane he was quitting, punched out, gave Diane his badge and left.

The administrative record shows that the claimant has not requalified for benefits since this separation but reflects he appears to be otherwise monetarily eligible for benefits after this part-time employer's wages are excluded from the base period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer, and has not requalified but appears to be otherwise monetarily eligible.

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.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

The claimant quit his employment because he did not want to become ineligible for his SSDI benefits based upon having too much income. He never discussed his limitation of hours when he interviewed with this employer, just that he wanted a part-time position. Employer gave claimant a part-time position and had work available for him. Since claimant limited the number of hours he would work due to the receipt of SSDI benefits, and the employer is not obligated to provide a certain number of part-time hours, the separation is not attributable to the employer.

While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. As such, the separation is disqualifying.

The next issue involves whether or not the claimant is otherwise monetarily eligible for benefits.

Iowa Admin. Code r. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on the Form 65-5323 or 60-0186, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the

individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

The separation is disqualifying; however, the claimant appears to be otherwise monetarily eligible according to base period wages. Thus, he may be eligible for benefits based upon those other wages.

DECISION:

The April 25, 2016, (reference 01), unemployment insurance decision is modified in favor of the appellant. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided he is otherwise eligible. The account of this part-time employer (168629) shall not be charged.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/css