

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GEORGE A PIERCE
Claimant

APPEAL NO. 13A-UI-00009-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 11/25/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated December 20, 2012, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit employment in order to move to a different locality. After due notice was provided, a telephone hearing was held on February 4, 2013. Claimant participated. Although duly notified, the employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: George Pierce began employment with Wal-Mart Stores, Inc. in June 2009. Mr. Pierce worked as a part-time deli employee averaging 24 hours of work per week and was paid by the hour. His immediate supervisor was Ms. Cindy Coe. Mr. Pierce left his employment with Wal-Mart Stores, Inc. on November 22, 2012 to relocate to a different geographic area where he hoped to be re-employed by Wal-Mart Stores, Inc.

Prior to leaving his employment with the Wal-Mart facility in Ames, Iowa, Mr. Pierce made inquiries of "transferring" his employment to a Wal-Mart facility in Spencer, Iowa where the claimant planned to move after purchasing a house from his son. When Mr. Pierce first made the request, the management of the Ames facility indicated that transfer would not be a problem, however, later before Mr. Pierce relinquished his position with the Ames Wal-Mart facility, Mr. Pierce was informed "that it would be up to him to get the job."

Prior to leaving the Ames, Iowa facility, Mr. Pierce contacted the management of the Spencer, Iowa facility. Although that individual indicated that he thought there should be no problem with the claimant securing new part-time employment at the Spencer facility, he specifically informed

the claimant was not guaranteed a job at the Spencer facility until all required paperwork had been completed and the claimant was hired.

Although Mr. Pierce believed that there would be no obstacles to his re-employment at the new facility, the claimant was not hired as the company had imposed a "hiring freeze" on new hires at the Spencer location. Because Mr. Pierce had purchased a home in the Spencer area and the distance was now too far to commute to his previous employment at the Ames, Iowa Wal-Mart facility, Mr. Pierce left his employment with Wal-Mart Stores, Inc.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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 Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). In this matter the evidence in the record establishes that Mr. Pierce voluntarily relinquished his position with the Wal-Mart facility where he was employed in Ames, Iowa in hopes of being re-hired by Wal-Mart at its facility located in Spencer, Iowa where the claimant had purchased a home and planned to move.

Although Mr. Pierce initially believed that he would be able to “transfer” to the new location, the evidence establishes that the claimant was specifically informed by his employer that in order to begin employment at the preferred Wal-Mart location in Spencer, Iowa, the claimant would have to go through the hiring process and that employment at the Spencer facility was not guaranteed to him until all paperwork had been completed and he was, in fact, hired to work at the Spencer Wal-Mart location. When Mr. Pierce left his employment at the Wal-Mart facility in Ames, Iowa where he had been previously employed, he was aware that there was no guarantee of being hired at the Spencer Wal-Mart location. Claimant, therefore, did not previously secure new employment before leaving his old job.

Unfortunately, factors beyond the claimant’s control intervened in the form of a hiring freeze. The evidence establishes that the claimant did not begin the new employment or perform services in the new employment.

The claimant’s reason for leaving his employment with Wal-Mart was not attributable to his employment with Wal-Mart but was based upon his desire to relocate for personal reasons and the evidence establishes that the claimant had not secured new employment before leaving. Claimant is, thus, subject to a benefit disqualification for leaving employment without good cause that is attributable to the employer.

DECISION:

The representative’s decision dated December 20, 2012, reference 01, 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 his weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs