

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DANIEL M WITKOSKE**  
Claimant

**APPEAL NO. 16A-UI-07811-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 06/19/16**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated July 12, 2016, reference 01, which denied benefits finding the claimant voluntarily quit work after being reprimanded by the employer. After due notice was provided, a telephone hearing was held on August 4, 2016. Claimant participated. The employer participated by Mr. James Daily, Assistant Manager, and Ms. Wanda Dipple, Training Coordinator.

**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: Daniel Witkoske was employed by Wal-Mart Stores from September 26, 2014 until June 15, 2016 when he voluntarily quit employment. Mr. Witkoske was employed as a part-time sales clerk and was paid by the hour.

On June 15, 2016, Mr. Witkoske personally spoke to Wanda Dipple, the company's training coordinator and stated at that time he was quitting employment because "My ship has come in." The claimant also stated that he was receiving a "\$5,000 bonus." Ms. Dipple understood the claimant's reference to mean that Mr. Witkoske was leaving to accept employment again in the broadcast industry, an industry he preferred and often referenced in the past. The claimant was given the opportunity to complete an exit interview that day but declined to do so.

It is Mr. Witkoske's position that he left employment on June 15, 2016 because he had been issued a written warning nine days earlier by Mr. Daily for not performing his job duties in a timely manner. On the morning of June 6, 2016, Mr. Daily had observed the claimant visiting with another worker in a different department. Mr. Daily also observed that the claimant did not have an electronic device with him that was required to know if new orders were "popping up" and needed to be processed. Because claimant was again late in processing in his department

later that day, Mr. Daily issued him a written warning for the claimant's conduct that had taken place after the first incident that morning.

The claimant was aware of the company's policy which allows employees to go up the chain of command if they feel they are not being treated fairly by their supervisors. Claimant was also aware of the company's confidential hotline that can be used to lodge complaints or request an investigation. The claimant did not follow through with a complaint or request an investigation. Although the claimant did not agree with the warning and refused to sign it, he did not fill out the portion of the warning that allowed him to comment and therefore took no further action until quitting his employment on June 15, 2016.

## **REASONING AND CONCLUSIONS OF LAW:**

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(22) 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:

- (22) The claimant left because of a personality conflict with the supervisor.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code 96.6(2).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988).

When a person voluntarily quits the employment due to dissatisfaction with the work environment or inability to work with supervisors, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (6).

The administrative law judge, having considered the evidence in the record, concludes Mr. Witkoske left his employment with Wal-Mart Stores on June 15, 2016 to accept employment in his preferred occupational field after he had previously been reprimanded for failing to timely perform his work. Later in the day on June 6, 2016, a warning was issued to him for conduct that was separate and apart from a previous incident that had taken place earlier that day. Claimant had the opportunity to go up the chain of command or use the company's confidential

hotline about the matter but did not lodge a complaint or request an investigation. Instead, the claimant continued in the employ of Wal-Mart Stores until June 15, 2016 when he left employment stating only to the fact that he had been offered preferable employment elsewhere.

While claimant's reasons for leaving were undoubtedly good cause reasons from his personal viewpoint, claimant's reasons for leaving are not attributable to the employer. Benefits are withheld.

**DECISION:**

The representative's decision dated July 12, 2016, 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.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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