

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM DRISKELL
Claimant

APPEAL NO: 11A-UI-13281-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09/11/11
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

William Driskell (claimant) appealed an unemployment insurance decision dated October 4, 2011, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Wal-Mart Stores, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 21, 2011. The claimant participated in the hearing. The employer did not comply with the hearing notice instructions and did not call in to provide a telephone number at which a representative could be contacted, and therefore, did not participate. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a full-time co-manager from October 8, 2003 through September 20, 2011 when he voluntarily quit due to what he believes was work-related medical reasons. He felt the job was causing him too much stress and the stress was affecting his overall health. No physician stated his health condition was due to his employment, he was not advised by a physician to quit his employment and he does not have a worker's compensation claim. He never provided the employer with any medical documentation and never told his employer that his stress and/or medical condition were solely attributable to his work. The claimant did tell his supervisor that he could not sleep and believed the reasons for it were "obvious."

The claimant worked the day shift until he was forced to work overnights from July 2010 through July 2011; this upset him greatly as he never signed on for that but he went ahead and did it. He was being asked to run the entire store after three days after he returned to the day shift.

The employer did not have enough help in the first place and many employees were gone on a leave of absence. The claimant did not feel like he was getting the support he needed from management and had to work too many hours. He believed personal life deteriorated and his family suffered because he was at work so much.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

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.

The claimant contends he quit his employment on September 20, 2011 due to a work-related stress induced medical condition. The only evidence presented that his medical condition is work related was his testimony; there was no medical evidence and the claimant admitted he had not been told by a physician that it was work related. The law presumes it is a quit without good cause attributable to the employer when an employee leaves due to an alleged work-related medical condition when there is no evidence to support that allegation. 871 IAC 24.25(36).

Additionally, an individual who voluntarily leaves their employment due to an alleged work-related illness or injury must first give notice to the employer of the anticipated reasons for quitting in order to give the employer an opportunity to remedy the situation or offer an accommodation. *Suluki v. Employment Appeal Board*, 503 N.W.2d 402 (Iowa 1993).

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. He has not satisfied that burden and benefits are denied.

DECISION:

The unemployment insurance decision dated October 4, 2011, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until he has worked in and has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs