

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY D SIMMONS**  
Claimant

**APPEAL NO. 10A-UI-02782-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 01/24/10**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 15, 2010, reference 01, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 31, 2010. The claimant responded to the hearing notice and provided a telephone number at which he could be reached. However, when the administrative law judge called that number, voice mail picked up. A detailed message was left for the claimant, stating that the record would be left open until 9:40 a.m. and the telephone numbers he should call if he wanted to participate in the hearing. The claimant did not call. The employer did not respond to the hearing notice and did not participate in the hearing. Official notice is taken of agency records.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having reviewed the agency records, makes the following findings of fact:

The claimant voluntarily resigned his position from Wal-Mart. The claimant's last day of work was December 10, 2009.

**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.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

There is virtually no evidence in this case. The employer's representative sent a letter indicating that the claimant voluntarily quit his job and that his last day of work was December 10, 2009. In his appeal letter the claimant stated that he resigned his job on November 29, 2009, due to a hostile work environment. The claimant did not participate in this hearing. The claimant had the burden of proof to show that his resignation was for good cause attributable to the employer. His uncorroborated statements that there was a hostile work environment are insufficient to carry his burden of proof. Benefits are denied.

**DECISION:**

The decision of the representative dated February 15, 2010, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

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