

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**PEDRO DOMINQUEZ MARQUEZ**  
Claimant

**APPEAL NO: 11A-UI-03092-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 01-23-11**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the March 7, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 7, 2011. The claimant participated in the hearing with Interpreter Ike Rocha. Brian Becker, Assistant Manager and Delores Orovco, Personnel Coordinator, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant voluntarily left his employment.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time overnight general merchandise stocker for Wal-Mart from November 10, 2009 to November 24, 2010. The claimant was a no-call/no-show November 14, 17 and 18, 2010. He went in to pick up his check and told the employer he was quitting without notice because he had a construction job. The claimant did not actually have another job but no longer wanted to work the night shift even though he was hired to work nights and was never promised a daytime position.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment without good cause attributable to the employer.

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.

871 IAC 24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer's policy. The claimant testified he quit because he did not want to continue working nights. He was hired for the night shift, however, and was aware of what his hours would be when he accepted the job. Consequently, the administrative law judge concludes the claimant voluntarily left his job without good cause attributable to the employer by failing to call or show up for work for three consecutive workdays. Therefore, benefits are denied.

**DECISION:**

The March 7, 2011, reference 01, decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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