

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARIA N TWIDWELL
Claimant

APPEAL 17A-UI-07069-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 06/18/17
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(2) – Quit to Move to Different Locality

STATEMENT OF THE CASE:

The claimant filed an appeal from the July 6, 2017 (reference 03) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit work to move to another locality. The parties were properly notified of the hearing. A telephone hearing was held on July 31, 2017. The claimant, Maria N. Twidwell, participated. The employer, Wal-Mart Stores, Inc., participated through Matthew Poss, Assistant Manager. Claimant's Exhibit A and Employer's Exhibit 1 was received and admitted into the record.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a pharmacy employee, from March 19, 2016, until March 31, 2017, when she quit to move to Colorado. Claimant had a medical issue beginning in October 2016, and this issue required her to miss work. Claimant applied for a medical leave of absence but she was not eligible for this benefit as she had only worked for the employer for a short time. Additionally, claimant was not eligible for medical insurance through the employer. Claimant decided to quit her employment and move to Colorado, where she has family. Claimant believes that she would have been fired in the month or two following her resignation, due to absenteeism.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation was without good cause attributable to the employer. Benefits are withheld.

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 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:

(2) The claimant moved to a different locality.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Claimant's decision to move out of state is not attributable to the employer. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). While claimant had compelling personal reasons to move to Colorado, her move and corresponding quitting of her employment was not for a good cause reason attributable to the employer. Benefits are withheld.

DECISION:

The July 6, 2017 (reference 03) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

lj/scn