

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JERALD A MALLORY
Claimant

APPEAL NO. 13A-UI-09146-N

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 07/14/13
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated August 2, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a hearing was held in Council Bluffs, Iowa on October 3, 2013. The claimant participated. Although duly notified, the employer did not participate.

ISSUE:

At 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: Jerald Mallory was employed by Wal-Mart Stores from January 20, 2009 until July 10, 2013 when he left his employment because of repeated questioning about his failure to meet company task time expectations. Mr. Mallory was employed as a full-time stocking associate, working 10:00 p.m. until 7:00 a.m. and was paid by the hour. His immediate supervisor was Julie Grugan.

Mr. Mallory left his employment with Wal-Mart Stores on July 10, 2013 after he had again been subject to unreasonable questioning and scrutiny about his job performance. Mr. Mallory had been repeatedly called to similar meetings and had repeatedly explained to the employer that he could not reach what he considered to be the unreasonable task expectations because of the numerous other duties and obligations that had been assigned to him by the company during the nighttime hours.

Because of the repeated nature of the accusations and questioning and his repeated explanations, Mr. Mallory concluded that the company was intentionally forcing him to quit employment.

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.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993). Claimants are not required to give notice of intention to quit due to intolerable or detrimental working environments if the employer had or should have had reasonable knowledge of the condition. Hy-Vee v. Employment Appeal Board, 710 N.W.2d 1 (Iowa 2005).

In this matter Mr. Mallory left his employment with Wal-Mart Stores based upon his reasonable conclusion that the working conditions were becoming intolerable or detrimental because of repeated questioning by company management about the claimant's inability to meet task times that had been arbitrarily set and unreachable by the claimant due to numerous other job responsibilities. The claimant had been repeatedly called in to explain the same issues to his employer. He reasonably believed based upon the repetitive nature of the questioning for the same issues after repeatedly supplying reasonable explanations that the employer was creating a hostile work environment for the claimant and left employment for those reasons.

There being no evidence to the contrary the administrative law judge concludes that the claimant has sustained its burden of proof in showing that he left employment with good cause that was attributable to the employer. Unemployment insurance benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated August 2, 2013, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed providing the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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