

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEL K DE VRIES**

Claimant

**APPEAL NO. 10A-UI-07919-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**Original Claim: 05/02/10**

**Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

**STATEMENT OF THE CASE:**

Del De Vries filed an appeal from a representative's decision dated May 25, 2010, reference 01, which denied benefits based on his separation from Wal-Mart Stores, Inc. After due notice was issued, a hearing was held by telephone on July 19, 2010. Mr. De Vries participated personally. The employer participated by Heidi Herrig, Personnel Coordinator, and Scott Reddick, Assistant Manager. Exhibits One through Five were admitted on the employer's behalf.

**ISSUE:**

At issue in this matter is whether Mr. De Vries was separated from employment for any disqualifying reason.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. De Vries began working for Wal-Mart on June 2, 2009 and worked full-time as an overnight stocker. On April 11, 2010, he requested a leave of absence because he was hospitalized due to anemia with internal bleeding. He was granted a leave of absence from April 11 through May 12. On May 3, he returned to the workplace with a doctor's release but indicated he was still having medical problems.

Mr. De Vries spoke with personnel on May 3 about extending his leave of absence. He was advised that he could take a total of 12 weeks off and that his job would be held for him while he was gone. He did not want his coworkers to have to perform extra work to make up for his absence and, therefore, he asked about quitting. He was told he could quit and that he would be eligible for rehire. He chose to quit rather than seek an extension of the leave of absence. Continued work would have been available if he had not quit.

After his separation, Mr. De Vries came to believe that his medical problems were aggravated by the lack of consistent work days at Wal-Mart. When he began the employment, he was working the same days each week. In January of 2010, the number of hours he worked each week declined. Although he worked the same shift each week, the days he would work

changed each week. He complained about the lack of consistency, but never indicated he would quit if the days he worked each week were not changed to be more consistent.

#### **REASONING AND CONCLUSIONS OF LAW:**

An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). The term "good cause attributable to the employer" generally refers to some matter over which the employer has control. Mr. De Vries quit because of medical problems but was not advised by a doctor to quit. In fact, his doctor had released him to return to work on May 3 following his April 11 hospital admission and before his leave of absence expired. The administrative law judge presumes his doctor would not have released him to return to a job that either caused or aggravated his medical condition.

Mr. De Vries' medical problems were continuing as of the date of the hearing herein. Given this fact and the fact that he has been away from Wal-Mart for over three months, the administrative law judge is not inclined to believe that the medical condition was aggravated by the lack of consistent work hours. Even if it were concluded that the schedule aggravated the condition, the fact remains that Mr. De Vries never put the employer on notice that he had a medical condition that was aggravated by the employment and that he intended to quit if he was not accommodated by being given a more consistent schedule. Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993). By not doing so, he deprived the employer of the opportunity to make those changes necessary to preserve the employment relationship.

Mr. De Vries had the opportunity to try to preserve his employment by requesting a leave of absence. Whether an extension would have been granted is unknown. The fact remains that he chose to end the working relationship rather than seek an extension of the leave of absence. The fact that he wanted to spare his coworkers from possibly having to work harder to cover the work during his leave of absence did not constitute good cause attributable to the employer for quitting. For the reasons cited herein, benefits are denied.

#### **DECISION:**

The representative's decision dated May 25, 2010, reference 01, is hereby affirmed. Mr. De Vries voluntarily quit his employment with Wal-Mart without good cause attributable to the employer. Benefits are denied until he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he is otherwise eligible.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw