

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MIRANDA R HAYS**

Claimant

**APPEAL 16A-UI-08753-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 07/10/16**

**Claimant: Respondent (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.26(1) – Voluntary Quitting – Change in Contract of Hire

Iowa Code § 96.3(7) – Recovery of Benefit Overpayment

Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview

**STATEMENT OF THE CASE:**

The employer filed an appeal from the August 1, 2016, (reference 01) unemployment insurance decision that allowed benefits based upon a voluntary quit. The parties were properly notified about the hearing. A telephone hearing was held on August 29, 2016. Claimant participated. Employer participated through store manager Andrew Fosselman. Employer's Exhibit 1 was received.

**ISSUES:**

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

Has the claimant been overpaid unemployment insurance benefits, and if so, can the repayment of those benefits to the agency be waived?

Can charges to the employer's account be waived?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on April 13, 2016. Claimant last worked as a full-time customer service representative. Claimant was separated from employment on June 4, 2016, when she resigned.

Claimant began working for employer as a cake decorator. She transferred to customer service on May 21, 2016. Before transferring, claimant informed assistant manager Jacque Valdez she could not work after 5:00 p.m. due to schooling and childcare issues. Valdez told claimant that would pose no issue. After claimant began in the customer service position, she was assigned to report to Will Shields. Shields assigned claimant to work after 5:00 p.m. Claimant complained to Shields twice, explaining she could not work after 5:00 p.m. Shields stated she would have to work when employer needed her. Claimant asked to transfer to another position, but Shields declined her request.

Thus, claimant resigned on June 4, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant voluntarily quit the employment with good cause attributable to the employer.

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. 871-24.26(1) 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:

24.26(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

While the employer is certainly entitled to make personnel decisions based upon its needs, that need does not necessarily relieve it from potential liability for unemployment insurance benefit payments. Since claimant's working hours were substantially changed and employer was unwilling to honor the agreement it made with claimant when she took the position, claimant has established she quit for a good cause reason attributable to employer.

Claimant is qualified to receive benefits. Thus, the issues regarding overpayment are moot and will not be addressed further in this decision.

**DECISION:**

The August 1, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily quit the employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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Des Moines, Iowa 50319-0209  
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Decision Dated and Mailed

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