

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**PATRICK C GRAY**  
Claimant

**WAL-MART STORES INC**  
Employer

**APPEAL 17A-UI-00525-JP-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/25/16**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 13, 2017, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 2, 2017. Claimant participated. Employer did not participate.

**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 in receiving from January 12, 2016, and was separated from employment on October 7, 2016, when he quit.

When claimant was hired, he was informed his schedule would be Tuesday through Friday. The employer also informed claimant he may have to work some overtime, but the employer did not explain to him how much overtime there would be. During the summer of 2016, claimant worked overtime six out of the seven weekends; he was allowed to choose what day he worked his overtime.

The week of October 7, 2016, the employer told claimant he was going to have to work eight Sundays of mandatory overtime starting November 6, 2016. On October 7, 2016, claimant told the operations manager that he was going to quit effective Friday, October 14, 2016. Claimant told the operations manager that he was quitting because the employer was going to have him work eight Sundays in a row. Claimant also quit because he had other arrangements on the weekends (e.g., a trip, hunting). Later on October 7, 2016, claimant called the employer and told it he quit effective immediately.

**REASONING AND CONCLUSIONS OF LAW:**

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

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(27) 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:

(27) The claimant left rather than perform the assigned work as instructed.

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). 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).

When claimant was hired, the employer informed him he may have to work overtime. Claimant then worked at least six out of seven weekends of overtime during the summer of 2016. Claimant's decision to quit because he did not want to work anymore mandatory overtime starting November 6, 2016, which was a known possibility when he was hired, was not for a good cause reason attributable to the employer. While claimant's leaving the employment may have been based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits must be denied.

#### **DECISION:**

The January 13, 2017, (reference 01) unemployment insurance decision is affirmed. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as claimant 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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Jeremy Peterson  
Administrative Law Judge

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Decision Dated and Mailed

jp/rvs