

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIMBERLY A BUNCH
Claimant

APPEAL NO. 08A-UI-11248-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC.
Employer

OC: 11/09/08 R: 02
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kimberly Bunch filed an appeal from a decision of a representative dated November 26, 2008, reference 01, which denied benefits based upon her separation from Wal-Mart Stores Inc. After due notice was issued, a hearing was held by telephone on December 22, 2008. Ms. Bunch participated personally. The employer participated by David Wiley, Assistant Manager.

ISSUE:

At issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from January 5, 2008 until approximately August 9, 2008 when she voluntarily left employment. Ms. Bunch last held the position of full-time overnight stocker and was paid by the hour. Her immediate supervisor was David Wiley.

Ms. Bunch left her employment with Wal-Mart Stores Inc. because of pregnancy and her desire to be at home to care for her children. The claimant had initially held the position of bakery department manager and had left that position because the employees were not being responsive to her work directives. As manager the claimant had the ability to issue disciplinary actions to employees who were not being responsive. The claimant, however, chose to accept another position with the company. After accepting the night position the claimant determined herself that it was not in her best interests or the best interests of children to continue in that position and resigned by telephone call. Company records do not reflect that the claimant provided notice of her intention to leave. Company records show that the claimant did not report or provide notification to the company on August 7, 8 or 9, 2008, leaving the company to the conclusion that the claimant had chosen to relinquish her position with Wal-Mart Stores Inc. Work continued to be available to the claimant at the time of her leaving. The claimant provided no medical document to the employer indicating that she was required to leave for medical reasons.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Bunch left her employment for reasons attributable to Wal-Mart Stores Inc. It does not.

The evidence in the record establishes the claimant chose to relinquish her previous position as bakery manager and to accept a night stocker position with the company. After accepting the night stocker position the claimant made a personal decision to leave her employment as she believed that the night hours were having a negative effect on her pregnancy and on her family. Prior to leaving the claimant supplied no medical documentation to the employer indicating that she was required to leave for medical reasons. The claimant did not exhaust all reasonable opportunities available to her prior to leaving her position as bakery manager. The claimant was aware of the nighttime hours and her responsibilities when she accepted the position of full-time night stocker. The administrative law judge must conclude based upon the evidence in the record, therefore, that the claimant voluntarily left her employment for reasons that were not attributable to the employer.

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.

DECISION:

The representative decision dated November 26, 2008, reference 01, is affirmed. The claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided that she meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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