

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEBBIE S EWOLDT
Claimant

WAL-MART STORES INC
Employer

APPEAL NO. 14A-UI-09904-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/31/14
Claimant: Appellant (1)

Iowa Code § 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated September 18, 2014, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on October 13, 2014. Claimant participated. Employer participated by Ben Henriksen.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on September 2, 2014. On September 2, 2014 claimant received a third warning in a three-month period for unexcused absences. That same date claimant was having trouble moving large items out of one shopping cart or flatbed and onto another. Claimant was told that she needed to do this as a part of her job as a cashier at a Sam's Club.

When claimant was first employed by employer the job description for cashier stated that cashiers need to be able to transfer fifty pounds from one flatbed cart to another without assistance. Claimant often needed assistance to transfer the large quantity of heavy items from one cart to another.

Employer requested that claimant fulfill her job description without requiring assistance. Claimant desired to transfer to another job that would not have the heavy lifting requirement. Claimant desired to be transferred to the membership desk. Employer would not transfer claimant to this position as this would be a promotion, and claimant had been warned multiple times recently for attendance issues. Employer offered to transfer claimant to being a greeter, but claimant denied this as greeters are not paid as much as cashiers.

After work on September 2, 2014, claimant did not return to work.

REASONING AND CONCLUSIONS OF LAW:

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.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was asked to transfer large items from one cart to another repeatedly during her shift. Claimant knew of the requirements of her job before she was hired. The job description stated with particularity that candidates must be able to move these heavy items without assistance. When employer told claimant that she would have to do those duties that were a part of her job description, claimant chose to quit. This quit was not for good cause attributable to employer.

Claimant also claims to have received disparate treatment from her employer. Individuals who leave their employment due to disparate treatment are considered to have left work due to intolerable or detrimental working conditions and their leaving is deemed to be for good cause attributable to the employer. The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993). In this matter, it is not unreasonable for the employer to request claimant to fulfill the duties stated in the job description. This is not seen as a quit for good cause.

DECISION:

The decision of the representative dated September 18, 2014, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/css