

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SANDRA LOPEZ
Claimant

APPEAL NO. 13A-UI-08416-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 06/09/13
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Sandra Lopez filed a timely appeal from the July 10, 2013, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on August 21, 2013. Ms. Lopez participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether Ms. Lopez separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Sandra Lopez began her full-time employment with Wal-Mart in 2005. During the first two years of the employment, Ms. Lopez worked at the employer's Muscatine store. Ms. Lopez then transferred to the employer's store in Davenport. Ms. Lopez last performed work at the Davenport store on May 24, 2013. At that point, Ms. Lopez voluntarily quit the employment at the Davenport store to relocate to the Chicago area so that she could be closer to her family. Ms. Lopez is from the Chicago area. Ms. Lopez initially expected to be able to secure a position at the Wal-Mart store in Aurora, but later learned that the Aurora store did not have a position available for her.

REASONING AND CONCLUSIONS OF LAW:

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.

871 IAC 24.25(2) 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:

(2) The claimant moved to a different locality.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

The evidence indicates that Ms. Lopez voluntarily ended her employment at the employer's Davenport store so that she could relocate to the Chicago area. Her voluntary quit from that position was without good cause attributable to the employer. Though Ms. Lopez's plan to subsequently secure a position at the employer's Aurora store fell through, that does not alter the fact that Ms. Lopez's separation from the job in Davenport had been based on her desire to relocate to the Chicago area. That fact makes the separation a voluntary quit without good cause attributable to the employer. Ms. Lopez is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits.

DECISION:

The agency representative's July 10, 2013, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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