

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALEX S JAMES

Claimant

APPEAL NO: 09A-UI-10709-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 06/21/09

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(4) – Absent Without Notice

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 22, 2009, reference 01, that held he voluntarily quit without good cause attributable to his employer on March 30, 2009, and benefits are denied. A telephone hearing was held on August 12, 2009. The claimant participated. Laurie Iverson, Assistant Manager, participated for the employer. Employer Exhibits One through Four were received as evidence.

ISSUE:

Whether the claimant voluntarily quit without good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for the employer as a full-time overnight stocker from January 9, 2009 to about April 24, 2009. The claimant had been on an approved leave of absence from March 30 to April 6 for a hospitalization at Broadlawns Hospital.

The employer attendance legend record for the period from April 29, 2008 to April 29, 2009 shows that the claimant performed work in April after his hospitalization. The claimant failed to call-in or report for scheduled work on April 25, 26 & 27, 2009. According to the employer attendance policy, the claimant is considered to have abandoned his job and quit employment.

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(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The administrative law judge concludes the claimant voluntarily quit without good cause attributable to his employer due to job abandonment

The claimant testified in this hearing that he was terminated from employment on or about April 6 when he returned to work with a doctor's note after his hospitalization. The employer attendance legend shows that he was approved for a leave of absence for this period. However, the record also confirms he worked after April 6 that corroborates the employer position he failed to report for work during the period from April 25-27, 2009 in accord with the voluntary termination of employment form.

DECISION:

The department decision dated July 22, 2009, reference 01, is affirmed. The claimant voluntarily quit without good cause due to job abandonment on April 27, 2009 when he failed to report for work. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs