

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KIM REGUR
Claimant

APPEAL NO. 13A-UI-06824-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 05/12/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Kim Regur filed a timely appeal from a representative's decision dated May 30, 2013, reference 01, which denied unemployment insurance benefits finding that she voluntarily quit employment without good cause. After due notice, a telephone hearing was held on July 10, 2013. Ms. Regur participated. The employer participated by Ms. Susan Murphy, Assistant Manager, and Wendy Pearson, Personnel Manager.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Kim Regur was employed by Wal-Mart Stores, Inc. from July 30, 2007 until May 11, 2013 when she voluntarily left employment without advanced notice. Ms. Regur was employed as a full-time sales associate in the company's garden department and was paid by the hour. Daniel McCellan was the assistant manager assigned to oversee garden sales.

Ms. Regur left her employment during the morning of May 11, 2013 after being assigned by the company to cashier temporarily in a different department. Ms. Regur found that her re-assignment, even on a temporary basis, would cause her husband who is also employed in the garden department to have to perform duties that were beyond his capabilities. The claimant was also dissatisfied as "a flagger" had not been provided to assist her husband in the past when unloading stock using a forklift. Prior to leaving her employment, Ms. Regur had not complained to company management about the temporary re-assignment or about the amount of work or lack of assistance when necessary. When Ms. Regur turned in her company badge and other equipment, she also turned in her husband's badge and equipment and he also left employment at that time.

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(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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6(2). An individual who voluntarily leaves their employment must first give notice to the employer of the reason for quitting in order to give the employer an opportunity to address or resolve the complaint. Cobb v. Employment Appeal Board, 506 N.W.2d 445 (Iowa 1993).

While the claimant may have been dissatisfied at her temporary re-assignment to a different department, it does not establish good cause for leaving employment. Ms. Regur had concerns that her temporary re-assignment might leave her husband, who was also employed in the company's garden department, without sufficient help. The claimant did not complain to management prior to leaving. The employer was thus precluded from understanding the claimant's dissatisfaction and taking steps to resolve it.

While Ms. Regur's leaving was undoubtedly with good cause from her personal viewpoint, claimant's leaving was without good cause that was attributable to the employer. The claimant had not provided the employer reasonable opportunity to rectify her dissatisfactions prior to leaving without advanced notice on May 11, 2013. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated May 30, 2013, reference 01, is affirmed. The claimant quit employment without good cause 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 her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs