

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KERRI P MANEELY
Claimant

APPEAL NO. 08A-UI-09001-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 07/27/08 R: 02
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Kerri Maneely filed an appeal from a representative's decision dated September 26, 2008, reference 01, which denied benefits based on her separation from Wal-Mart Stores, Inc. After due notice was issued, a hearing was held by telephone on October 21, 2008. Ms. Maneely participated personally. The employer participated by Josh Bonney, Co-Manager.

ISSUE:

At issue in this matter is whether Ms. Maneely was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Maneely was employed by Wal-Mart from February 23 until September 15, 2007 as a cashier. She worked from 30 to 40 hours per week. She was approximately seven months pregnant at the time of separation and had had to be sent home periodically because of urinary tract infections and back pain. On September 15, she asked her manager if she could take the weekend off because of problems associated with her pregnancy. He told her to "tough it out" as her services were needed because the store was busy. However, because of pain, Ms. Maneely opted to leave.

Over the weekend following September 15, Ms. Maneely and her husband decided she would not return to her job at Wal-Mart. She felt the manager had disrespected her by asking her to "tough it out." She never notified the employer of her decision to quit. Continued work would have been available if Ms. Maneely had continued reporting for work.

REASONING AND CONCLUSIONS OF LAW:

Ms. Maneely abandoned her job when she stopped reporting for available work. The employer considered her a "no call/no show" for September 15, 16, and 18, 2007. Ms. Maneely contended that she was, in fact, at work on September 15. However, the fact remains that she

did not return to work or contact the employer at any point after September 15, 2007. Because she abandoned her job, her separation is considered a voluntary quit.

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Ms. Maneely did not return to work for Wal-Mart because she felt the manager had disrespected her. His statement that she should "tough it out" was not so outrageous as to constitute good cause attributable to the employer for quitting.

The administrative law judge appreciates that Ms. Maneely was having problems with her pregnancy at the time she left the employment. She was not advised by her doctor to quit. Moreover, she could have requested a medical leave of absence until after the baby was born but did not do so. If she felt it was inappropriate of her manager to ask her to work when she was in pain, she could have contacted other management or complained to human resources about the treatment. She made no effort to put the employer on notice that there were work-related problems that needed to be resolved in order for her to continue the employment. She made no good-faith effort to retain her employment.

After considering all of the evidence, the administrative law judge concludes that Ms. Maneely's separation was not for good cause attributable to the employer. As such, benefits are denied.

DECISION:

The representative's decision dated September 26, 2008, reference 01, is hereby affirmed. Ms. Maneely quit her employment with Wal-Mart for no good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs