

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASON S HALE
Claimant

WAL-MART STORES INC
Employer

APPEAL 16A-UI-08806-NM-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/24/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(18) – Disliked Shift
Iowa Admin. Code r. 871-24.25(23) – Serious Family Needs

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 9, 2016, (reference 01) unemployment insurance decision that denied benefits based upon his voluntary quit. The parties were properly notified of the hearing. A telephone hearing was held on August 31, 2016. The claimant Jason Hale participated and testified. The employer Wal-Mart Stores Inc. participated through Market Human Resource Manager Brian Koopmann.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as an assistant manager from April 13, 2015, until this employment ended on July 22, 2016, when he voluntarily quit.

On July 7, 2016, claimant gave formal notice to his immediate supervisor, Store Manager Josh Vott, that he was resigning effective July 22, 2016. Claimant told Vott he was resigning for personal reasons. During the hearing, claimant explained that his mother, who lived in Des Moines and had recently had a stroke, needed his assistance in caring for her. Claimant had previously been able to provide the care his mother needed and retain his position, but was informed in late June that he was going to have to start working overnights. Claimant knew at the time of his hire that overnight shifts were a possibility, but with his mother's current health, he could not work these shifts and continue to care for her. Claimant advised Vott that he would likely have to resign if he was required to work nights, but Vott did not change his mind. Prior to this change claimant had requested a hardship transfer to a store that would allow him to be closer to his mother, but this request was denied. Koopmann explained the employer had a new policy that required employees to work in their current store for at least 18 months and for the transfer to be more than 40 miles away. Claimant did not meet either of these requirements,

so his request was denied. Claimant testified that had he not been required to switch to overnight hours, he would have continued working for the employer even after his transfer request was denied. Had claimant not resigned, work would have continued to be available to him.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

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.

Iowa Admin. Code r. 871-24.25 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:

(18) The claimant left because of a dislike of the shift worked.

...

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Claimant left his employment when he was informed he would have to start working overnight hours. Claimant knew at the time he was hired that he may be required to work overnight hours, but this became an issue for him once he needed to care for his mother. While the claimant is to be commended for assisting his mother, and his leaving was most certainly based upon good personal reasons, it was not for a good-cause reason attributable to the employer according to Iowa law. Benefits are denied.

DECISION:

The August 9, 2016, (reference 01) unemployment insurance decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he is deemed eligible.

Nicole Merrill
Administrative Law Judge

Decision Dated and Mailed

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