

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ASHLEY J HOUZENGA**  
Claimant

**APPEAL NO. 10A-UI-02222-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 11/29/09**  
**Claimant: Respondent (4-R)**

Iowa Code Section 96.5(1) – Voluntary Quit  
871 IAC 24.27 – Voluntary Quit of Part-time Employment

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the January 28, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on March 29, 2010. Claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Brian Hasselhoff, Assistant Manager, represented the employer. Exhibit One was received into evidence. The administrative law judge took official notice of the Agency's record of benefits dispersed to the claimant, which records indicate no benefits have been dispersed to the claimant in connection with the claim that was effective November 29, 2009.

**ISSUE:**

Whether the claimant separated from the employment for 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: Ashley Houzenga was employed by Wal-Mart Stores, Inc., as a part-time garden center associate from April 2009 and last performed work for the employer on November 26, 2009. On November 25, 2009, Ms. Houzenga was absent from work without notifying employer. Ms. Houzenga subsequently spoke to a member of management and was allowed to return to the employment on November 26, 2009. On November 26, 2009, Ms. Houzenga worked a short while and then left work early without authorization. Ms. Houzenga was then absent without notifying the employer on November 28 and 30. Ms. Houzenga did not make further contact with the employer. On December 8, 2009, the employer documented a voluntary termination of the employment by means of job abandonment.

## **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.

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 claimant did not participate in the hearing and thereby failed to present any evidence to suggest a voluntary quit for good cause attributable to the employer or an involuntary separation from the employment. The weight of the evidence in the record indicates that the claimant voluntarily quit the employment on November 26, 2009, when she left work early without approval and then failed to make further contact with the employer. The weight of the evidence indicates that the voluntary quit was for personal reasons and not for good cause attributable to the employer.

The claimant is disqualified for benefits based on base period wage credits earned through this employment 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 paid to the claimant.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27. In other words, though the claimant is not eligible for benefits based on her employment with Wal-Mart, the claimant may be eligible for reduced benefits based on other former employment, provided she meets all eligibility requirements. This matter will be remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits based on wage credits earned through base period employment other than Wal-Mart.

## **DECISION:**

The Agency representative's January 28, 2010, reference 01, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The employer's account shall not be charged. The claimant is disqualified for benefits based on base period wage credits earned through this employment 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 claimant would otherwise be eligible for reduced

benefits, provided she meets all eligibility requirements. This matter is remanded to the Claims Division for redetermination of the claimant's eligibility for reduced benefits based on wage credits earned through base period employment other than Wal-Mart.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

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