

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

BRANDALYN M GOODING  
7505 CAMDEN LN #228  
URBANDALE IA 50322

WAL-MART STORES INC  
c/o FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166

Appeal Number: 05A-UI-07588-JTT  
OC: 06/19/05 R: 02  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Wal-Mart filed a timely appeal from the July 13, 2005, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on August 9, 2005. Training Coordinator Kim Campbell represented Wal-Mart and presented additional testimony through Personnel Manager Kelly Hilton. Brandalyn Gooding did not respond to the hearing notice and did not participate. Exhibits One, Two, and Three were received into evidence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Brandalyn Gooding was employed by Wal-Mart as a full-time fabric and crafts associate from December 8, 2004 until May 27, 2005, when she voluntarily quit. On May 27, 2005, Ms. Gooding telephoned Wal-Mart and spoke with Personnel Manager Kelly Hilton. Ms. Gooding advised Ms. Hilton that

she would not be returning to Wal-Mart because she had accepted other employment and would be relocating out of state that day. Ms. Gooding indicated that she might be able to return the next week to complete an exit interview. The employer did not again hear from Ms. Gooding.

During the last month of Ms. Gooding's employment, Ms. Gooding had advised the employer that another employee had sexually assaulted her. Ms. Gooding advised the employer she had been dating the employee and was sexually assaulted after she attempted to break off the relationship. Immediately prior to submitting her resignation, Ms. Gooding had been discussing with the employer the possibility of transferring to another store. The employer had already taken steps to ensure that Ms. Gooding and the other employee did not work the same shift. Wal-Mart was willing to explore transferring Ms. Gooding to another store. In addition, the Des Moines Police investigated the allegation of sexual assault and concluded that no prosecutable offense had occurred. Ms. Gooding did not reference the alleged assault or Wal-Mart's response to it when she spoke to Ms. Hilton on May 27. Instead, Ms. Gooding appeared excited about her new employment.

Ms. Gooding established a claim for benefits that was effective June 16, 2005, but has not collected benefits.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Gooding voluntarily quit the employment with good cause attributable to the employer. It does not.

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.

Where an employee gives the employer notice of intention to resign and the employer accepts the resignation, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(37). When an employee quits employment to relocate to another locality, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(2).

The evidence in the record establishes that Ms. Gooding voluntarily quit the employment by notifying the personnel manager of her intention to resign, after accepting other employment. The employer accepted the resignation. Ms. Gooding advised the employer at the same time she tendered her resignation that she would be relocating to another state.

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Gooding voluntarily quit without good cause attributable to Wal-Mart. Accordingly, Ms. Gooding is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is then otherwise eligible. Wal-Mart's account will not be charged for benefits paid to Ms. Gooding.

As Ms. Gooding has not received benefits since establishing her claim, there is not overpayment.

DECISION:

The Agency Representative's decision dated July 13, 2005, reference 02, is reversed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as the claimant 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 will not be charged for benefits paid to the claimant.

jt/tjc