IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

JEFFREY M VANDER SLUIS
Claimant

APPEAL NO: 14A-UI-09514-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

**OC: 08/10/14
Claimant: Respondent (1)**

Iowa Code § 96.5(1)d – Voluntarily Left for Medical Reasons and No Job When Released

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's September 4, 2014 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant had been discharged for disqualifying reasons. The claimant did not respond to the hearing notice or participate at the October 2 hearing. Brian Koopman, the marketing human resource manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes that based on the reasons for his employed status as of August 10, the claimant was qualified to receive benefits, but he was eligible to receive benefits because the employer was still paying him.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits, or did the employer discharge him for work-connected misconduct?

FINDINGS OF FACT:

The claimant started working for the employer in March 2004. The last day the claimant worked for the employer was in May 2014. He was working as a full-time assistant manager.

The employer granted the claimant FMLA for three medical issues the claimant had since May 2014. The claimant exhausted his FMLA early July, 2014. The employer then authorized a medical leave for the claimant for an additional 30 days. When the claimant exhausted his FMLA, his job was no longer protected, but the employer still considered him an employee.

On August 1, the claimant informed the employer he was released to return to work on August 2. The employer did not have a job as an assistant manager available at the location where the claimant had been working. Initially, the employer understood the claimant would again be placed on an unpaid leave of absence. Later, the employer learned the claimant would be paid wages July 2 through October 2, 2014.

The claimant established a claim for benefits during the week of August 10, 2014. He has not filed any weekly claims. The claimant started working for the employer as an assistant manager at another location on September 20, 2014.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if he voluntarily quits employment without good cause attributable to the employer, or an employer discharges him for reasons constituting work-connected misconduct. Iowa Code §§ 96.5(1), (2)a. When a claimant has been on an authorized medical leave of absence, he is eligible to receive benefits when his physician releases him to return to work and the employer does not have his regular or comparable suitable work available for him to do. Iowa Code § 96.5(1)d. When the claimant established his claim for benefits the week of August 10, 2014, he was qualified to receive benefits because the employer did not have work for him to do after the claimant's physician released him to work. Since the employer was paying the claimant wages through October 2, 2014, the claimant did not file any weekly claims and started working for the employer at another store on September 20, 2014.

DECISION:

The representative's September 4, 2014 determination (reference 01) is affirmed. The employer did not have any suitable work for the claimant when the claimant was released to work on August 2, 2014. Even though the claimant's employment separation is for nondisqualifying reasons, the claimant did not file any weekly claims because the employer would have paid the claimant wages through October 2, 2014. Fortunately, for both parties, the claimant started working for the employer again at another location on September 20, 2014.

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Debra L. Wise
Administrative Law Judge

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Decision Dated and Mailed

dlw/css