

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSE H RADCLIFFE**  
Claimant

**APPEAL NO. 07A-UI-00689-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART**  
Employer

**OC: 12/31/06 R: 01  
Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Jesse Radcliffe, filed an appeal from a decision dated January 18, 2007, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 5, 2007. The claimant participated on his own behalf. The employer, Wal-Mart, participated by Assistant Manager Doug Hank and Personnel Manager Kathryn Pafford.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Jesse Radcliff was employed by Wal-Mart from September 7, 2005 until December 29, 2006. He worked full time on the overnight maintenance crew. On December 29, 2006, he gave a verbal resignation to the assistant manager, Craig. He believed he had a job at another company, Astro, although no one from that company ever contacted him to offer him a job, he never filled out an application and had no confirmation he had been employed. It was merely that another employee on the Wal-Mart night crew intended to work for Astro and wanted the claimant on his work crew.

Mr. Radcliff wanted to look for another job because the night crew was receiving complaints that its work was not getting done and he also did not like the cold temperatures in the building at night. He contacted OSHA about the temperature, but not until after he quit.

**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.

871 IAC 24.25(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant quit because he believed he had another job. However, there is nothing in the record to establish he had been offered other employment. There was only a possibility he might be on the work crew of another Wal-Mart employee who also intended to quit to go to work for this other company. This does not constitute good cause attributable to the employer under the provisions of the above Administrative Code section.

The claimant's other complaints about the temperature in the building at night were addressed by management and the situation was fixed, but not until after the claimant had quit, because he did not complain to management beforehand. Also, the work crew being advised it was not completing the work as required does not constitute good cause attributable to the employer. The claimant is disqualified.

**DECISION:**

The representative's decision of January 18, 2007, reference 01, is affirmed. Jesse Radcliffe is disqualified and benefits are withheld until he has earned ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/kjw