

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LISA A PERKINS

Claimant

APPEAL NO. 09A-UI-01280-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 11/16/08 R: 03
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated January 15, 2009, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice was issued, a telephone conference hearing was scheduled for and held on February 12, 2009. The claimant participated personally. The employer participated by Jeff Frese, store director.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer from February 7, 2007, until November 20, 2008, when she voluntarily quit employment due to the working environment. Ms. Perkins was employed as a part-time grocery stocker working 38 hours per week. Her immediate supervisor was Teresa Kramer.

Ms. Perkins left her employment with Wal-Mart Stores after experiencing difficulty working with a specific female manager from a different department. The claimant and other employees had experienced some difficulty in working with the female manager because of what they considered to be unusual behavior on the part of the manager. Company employees had reported the manager's conduct to management; however, no action had been taken, as the matter was pending investigation.

Ms. Perkins left her employment based upon an incident that took place on November 17, 2008. At that time, the female manager and Ms. Perkins had a dispute about pricing instructions. The claimant, believing that she was following the established policies of her department, attempted to inform the manager of the reasons that the pricing was taking place, whereupon the manager became unreasonably angry and "lunged" at the claimant. The manager was restrained by another worker who was present. Ms. Perkins brought the matter to the attention of company management. Ms. Perkins left her employment because she believed that she again would be subjected to unreasonable treatment and/or the possibility of assault by the female manager who continued to be employed.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Ms. Perkins had good cause for reasons attributable to the employer for quitting employment. It does.

In this case, the claimant participated personally and provided sworn, firsthand testimony, testifying that she left her employment due to her reasonable concern that she might be subjected to additional unreasonable treatment and/or the possibility of assault by a female manager of the company. The claimant testified that employees had experienced difficulty in working with the female manager due to the manager's unusual and aggressive conduct. The matter had been reported to company management. The claimant further testified that she left her employment because she felt that the employer had not taken sufficient steps to limit the female manager's unusual conduct. The claimant further testified that she felt that she might be subjected to additional unreasonable treatment and/or the possibility of assault if she did not leave employment.

In contrast, the employer's evidence regarding the female manager's conduct, the incident in question, and the basis for the claimant's leaving, are based primarily on hearsay evidence. Although hearsay is admissible in administrative proceedings, it cannot be accorded the same weight as sworn and direct testimony.

Based upon the evidence in the record, the administrative law judge concludes that the claimant followed a reasonable course of action by bringing to the attention of management her difficulty in working with the manager in question and left her employment when she had reasonable concerns about future working conditions and/or the possibility of additional conflicts with the female manager in question.

871 IAC 24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

For the reasons stated herein, the administrative law judge concludes that the claimant has sustained her burden of proof in establishing that she left employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's decision dated January 15, 2009, reference 01, is affirmed. The claimant voluntarily quit employment for reasons attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw