

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SIDELLE DAVIS JR
Claimant

APPEAL NO: 15A-UI-01772-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 01/18/15
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 5, 2015 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit for reasons that do not qualify him to receive benefits. The claimant participated at the March 9 hearing. The employer did not respond to the hearing notice or participate at the hearing. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

Did the claimant voluntarily quit his employment for reasons that qualify him to receive benefits?

FINDINGS OF FACT:

The claimant accepted the employer's offer to work a second-shift job, 3:30 p.m. to 1:30 am., loading trailers. The claimant started this full-time job on October 30, 2014.

The claimant lives 20 to 25 miles from work. In December 2014, the claimant experienced a couple of near accidents when he drove home after work. On January 21, 2015, the claimant asked the employer for another shift because he was too tired to drive home after work. The employer could not accommodate the claimant's request for another shift. The claimant voluntarily terminated his employment because it was not safe for him to drive home after working second shift. (Claimant's Exhibit A.) The claimant's last day of work was January 21, 2015.

REASONING AND CONCLUSIONS OF LAW:

A claimant is not qualified to receive unemployment insurance benefits if a claimant voluntarily quits employment without good cause attributable to the employment. Iowa Code § 96.5(1). When a claimant quits, he has the burden to establish he quit for reasons that qualify him to receive benefits. (Iowa Code § 96.6(2).

The law presumes a claimant quits without good cause when he leaves because he does not like the shift he works. 871 IAC 24.25(18). The law also presumes a claimant quits with good cause when he leaves because of unsafe working conditions. 871 IAC 24.26(2).

The claimant established personal reasons for quitting after he experienced a couple of “almost accidents” on his way home from work. While I understand the claimant’s reasons for quitting, the facts do not establish that the claimant’s working conditions were unsafe. Therefore, 871 IAC 24.26(2), does not apply in this case. The claimant accepted the second shift job knowing that he would have to drive 20 to 25 miles back after 1:30 a.m. The reasons the claimant quit do not qualify him to receive benefits. As of January 18, 2015, the claimant is not qualified to receive benefits.

DECISION:

The representative’s February 5, 2015 determination (reference 01) is affirmed. The claimant voluntarily quit this employment for personal reasons. These reasons do not qualify him to receive benefits. As of January 18, 2015, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer’s account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs