

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THERESA LOCKWOOD
Claimant

APPEAL NO. 06A-UI-09684-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 08-20-06 R: 01
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 21, 2006, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 17, 2006. The claimant participated in the hearing. Greg Salmon, Co-Manager, and Mike Jefferson, Assistant Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left her employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time domestics department manager for Wal-Mart from May 13, 2003 to August 21, 2006. On August 12, 2006, the employer notified the claimant she would have to work overnights the following week to reset her department. The claimant was able to complete the task August 14 and 15, 2006, and went back to days August 17, 2006. One and one-half hours before the end of her shift that day, the employer told the claimant it wanted the Fall Cube gone that day. The job usually takes four to five hours to do, but she managed to get it done with the help of another employee working at a "frantic" pace before she left for the day. On Friday mornings the department managers filled empty shelves. On August 18, 2006, the claimant was told to work several carts and was then told to fill the pillow wall. The claimant felt that either job could be accomplished, but not both within the time frame the employer expected. The employer then told her to do the end of aisle displays, which involved taking everything down, rearranging, re-pricing and re-labeling each item of the 15 displays in her area, which generally takes a full day. She was asked to perform the task within two hours. The claimant completed half of the aisle displays and was physically and emotionally exhausted by the time she left at 3:15 p.m. As she was leaving, a manager told her that the co-manager wanted all the end of aisle displays completed. He was smiling as he told her and the claimant, thinking he was joking, said, "He can fire me then." The claimant was not scheduled August 19 or 20, 2006. At the end of the day on August 21, 2006, she was called

into the manager's office and told she was being written up for insubordination because she did not stay late on Friday and left with carts of merchandise out. The claimant refused to sign the warning because she did not believe she was insubordinate or left any carts out. She left the office "totally humiliated" and did not return to work August 22, 2006. Store Manager Jay Wheeter called and she told him she did not know if she was going to return to her job. She tried to call Mr. Wheeter August 23, 2006, but he was not in the store that day. On August 24, 2006, she spoke to Mr. Wheeter and explained she felt there were too many different members of management giving conflicting instructions and direction was often not provided until near the end of the day rather than at the beginning. After explaining the situation surrounding her warning, the claimant believed Mr. Wheeter would "fix" the insubordination warning but he told her there was a plan to raise employees' "sense of urgency" about getting their work done. The claimant said she already had a strong sense of urgency regarding her job and Mr. Wheeter told her to take a few days to think about whether she wanted to return. The claimant felt sick while working for the employer and was losing weight and hair but could not afford medical care. Consequently, she decided not to return to her job because there was no indication any changes would be made.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with good cause attributable to the employer.

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.

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. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. It appears the claimant worked very hard at her job and was being told to do several different things by different managers in an unrealistic time frame. The claimant's shift ended at 3:15 p.m., as she altered her break and lunch periods in order to leave at that time rather than 4:00 p.m. On August 18, 2006, the claimant was performing her regular Friday task of restocking the shelves when she was told to fill the pillow wall and redo the 15 aisle displays in her department. Filling the pillow wall is time-consuming and redoing the aisle displays can take all day, but the employer did not tell the claimant about those tasks until afternoon, at which point she did not have enough time to finish with the aisles. The claimant credibly testified she believed the manager was joking when he said the store manager wanted all the aisle displays done before she left and that she replied "he can fire me then" in a joking manner as well. Under these circumstances the warning issued to the claimant August 21, 2006, stating she left early and was insubordinate, was inappropriate at best; and it is understandable that she was upset by the warning. Additionally, the employer's "plan" to increase the workload and time pressures to raise the "sense of urgency" among employees helped created the intolerable and detrimental working conditions described by the claimant. Consequently, the administrative law judge concludes the claimant voluntarily left her

employment and has demonstrated that her leaving was for good cause attributable to the employer. Benefits are allowed.

DECISION:

The September 21, 2006, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided she is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw