

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WENDY TORRES

Claimant

APPEAL NO: 09A-UI-18772-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 11/01/09

Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Wendy Torres (claimant) appealed an unemployment insurance decision dated December 9, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Wal-Mart Stores, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 27, 2010. The claimant participated in the hearing. The employer participated through Aaron Green, General Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in January 2007 and was most recently employed as a full-time fresh food assistant manager in the Waterloo Wal-Mart Store. She was having some personal problems and was making arrangement to relocate to Valdosta, Georgia to be near her family. The claimant sent an e-mail to Catherine Walker, Regional Human Resources, on September 15, 2009 at 12:39 p.m. acknowledging there were no jobs available in the Valdosta, Georgia Wal-Mart store. The store manager from Valdosta told the claimant the store was overstaffed and that there was a hiring freeze. There was not even an hourly position available. The claimant listed approximately nine other Wal-Mart stores in her e-mail that were near her home town and requested to be transferred to one of those stores. On September 30, 2009 the claimant sent another email to Ms. Walker at 12:42 p.m. reporting that her transfer had been turned down due to active coachings in her personnel records. On that same day, the claimant walked off the job.

However, the employer allowed the claimant to be placed on a 30-day personal leave of absence since it knew the claimant was having some personal problems. The general manager signed the leave of absence that went from October 1, 2009 through November 1, 2009. The claimant moved to Georgia on October 1, 2009. The employer subsequently extended the

leave of absence two more times until December 1, 2009 but the claimant testified she was not aware her leave had been extended. The Waterloo Wal-Mart Store completed the separation paperwork on December 1, 2009 indicating the claimant quit because she moved to Georgia.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the reasons for the claimant's separation from employment qualify her to receive unemployment insurance benefits. The claimant is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1. The evidence demonstrates the claimant was placed on a personal leave of absence on October 1, 2009 which was the same day she moved to Georgia from Iowa. She was terminated from the Waterloo store effective December 1, 2009 due to relocating.

The claimant contends she was laid off on November 1, 2009 due to lack of work in the Valdosta, Georgia area. She testified she was told she would have a job but the evidence does not support that contention. The claimant had full-time work in Waterloo but left the state for personal reasons. It is her burden to prove that the voluntary quit was for a good reason that would not disqualify her. Iowa Code § 96.6-2.

871 IAC 24.25(2) 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 § 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 § 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:

(2) The claimant moved to a different locality.

The claimant voluntarily quit because she moved to Georgia. While she may have had compelling personal reasons to voluntarily quit her employment, these reasons do not constitute good cause attributable to the employer. Benefits are therefore denied.

DECISION:

The unemployment insurance decision dated December 9, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css