

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEANNA K HESSON
Claimant

WAL-MART STORES INC
Employer

APPEAL 16A-UI-09076-LJ-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 07/31/16
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code r. 871-24.25(22) – Personality Conflict with Supervisor

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 17, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit work because she was dissatisfied with her work environment. The parties were properly notified of the hearing. A telephone hearing was held on September 7, 2016. The claimant, Deanna K. Hesson, participated. The employer, Wal-Mart Stores, Inc., participated through Michael White, store manager; and Susan Jacobsen, HR representative. Claimant's Exhibit A was received and was not admitted into the record, as it was her own typed statement and the employer did not receive a copy prior to the hearing.

ISSUE:

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part time, most recently as a cashier, from July 29, 2015, until August 2, 2016, when she quit effective immediately, due to difficulties with Kay, the CSM. Claimant told White she was quitting because she was tired of being harassed by Kay. The final incident that led to claimant quitting occurred that same day. Claimant went back to the computer to do a computer-based learning activity, or CBL. Once she was into the testing, the computer froze up and she could not finish the test. Kay came back and said she would find someone to help her. Claimant explained she did not need help and that the computer had locked up. Kay told claimant she had to go up and cover a lunch break, so claimant did that. About five minutes later, Kay came over with another employee who would help claimant with the CBL. Claimant again explained that she did not need help with the CBL. Kay made her feel like she was stupid and said if she did not complete the CBL that day, she would not be a cashier. This led claimant to quit.

Claimant testified that Kay made derogatory remarks toward her during her employment. She told claimant she did not want her in a cashier position. She frequently asked claimant what

time she got off work and would ask why she was not working if claimant came in on her day off. She also messed with claimant's break schedule. Claimant complained about Kay several times during her employment. Most recently, she complained to White and Tammy, the assistant manager, in March 2016. White told claimant he would talk to Kay, but the situation did not improve. Later, when Tammy asked claimant how things were and claimant said they were about the same, Tammy said it was crazy and "that" does not happen here, referring to bullying and harassment. White testified that when he followed up with claimant after the March 2016 conversation, she reported that the situation had improved a bit. White was working on moving Kay into another position, but due to other staffing issues he was not able to do this before the end of claimant's employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's separation from her employment was without good cause attributable to the employer.

Iowa Code §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.

Iowa Admin. Code r. 871-24.25 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: ...

(22) The claimant left because of a personality conflict with the supervisor.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant quit after her supervisor made her feel incompetent by offering to have another employee help her with a computer training. Nothing about this encounter would cause the average person to abandon her employment. A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Here, claimant told White she was quitting and left her employment. Claimant's decision to quit because she did not agree with the supervisor about various issues was not for a good cause reason attributable to the employer. Benefits are withheld.

DECISION:

The August 17, 2016, (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Elizabeth A. Johnson
Administrative Law Judge

Decision Dated and Mailed

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