

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SHIRLEY SIMONSON**  
Claimant

**APPEAL NO. 18R-UI-08146-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WALMART INC**  
Employer

**OC: 05/20/18**  
**Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit

**STATEMENT OF THE CASE:**

Shirley Simonson (claimant) appealed a representative's June 7, 2018, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with Walmart (employer). This administrative law judge issued a decision on July 3, 2018, affirming the representative's decision. A decision of remand was issued by the Employment Appeal Board on July 30, 2018. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for August 21, 2018. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant was separated from employment for any disqualifying reason.

**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 on November 10, 2001, as a full-time training coordinator. She signed for receipt of the employer's handbook when she was hired. The employer has a policy that an employee will be considered to have quit if the employee is absent for three days without giving notice to the employer.

On April 28, May 1, and May 2, 2018, the claimant did not appear for work and did not call to inform the employer of the reason for the failure to appear for work. The claimant was drinking alcohol and did not call the employer about her absences. She had been diagnosed as an alcoholic fifteen to twenty years earlier. Previously she sought treatment. On May 3, 2018, when she returned to work, the employer told the claimant she was considered to have quit for failing to appear for work without notice for three days.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge finds the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Admin. Code r. 871-24.25(4) 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant was absent from work for three days without giving notice to the employer. The employer has a rule that if the employee is absent without notice to the employer for three days the employee is deemed to have voluntarily quit. The claimant argues that her absences should be excused because she was incapacitated. In this case the claimant was absent due to a condition for which she had been diagnosed and treated. Her absences were due to her actions, not the employer's actions. The claimant is deemed to have voluntarily quit based on her absence from work for three days without giving notice to the employer. There is no evidence of good cause attributable to the employer.

**DECISION:**

The representative's June 7, 2018, decision (reference 01) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs