

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIE L THOMAS
Claimant

WALMART INC
Employer

APPEAL 20A-UI-07670-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer
Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Willie L. Thomas, appealed the July 2, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Thomas voluntary quit her job with Walmart, Inc. (Walmart) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on August 12, 2020. Thomas participated personally and testified. Walmart did not participate.

ISSUES:

Was Thomas's separation from employment with Walmart a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Walmart hired Thomas on or about September 11, 2018. He worked full time in the café. On November 22, 2019, Thomas voluntarily left employment with Walmart.

Thomas had to work in extreme hot and cold temperatures while on the job. While Thomas is generally a healthy person, the changes in temperature caused him to become ill. Thomas lost his voice on more than one occasion.

Thomas generally tried to work regardless of his symptoms because he did not want to leave his employer or coworkers in a bind. On one occasion, his supervisor sent him home because of his symptoms.

Thomas decided he needed to work a different job. He had discussions about changing jobs at the store. A potential change to the meat department sounded promising, but Walmart gave the job to someone else. The only available position was in the tire department, which would require Thomas to work with similar changes in temperature to what he experienced in the café, so he opted not to pursue the job.

A doctor did not advise Thomas to get a different job. Thomas has not filed a workers' compensation claim regarding his illness. Because Thomas continued to get sick working in the café, he decided to quit his job in order to get healthy again.

In early November, Thomas submitted his notice of resignation to Walmart on the company's internal system. He gave Walmart two weeks' notice, but agreed to work an extra week. Thomas's resignation took effect on November 22, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Thomas voluntarily left employment with Walmart without good cause attributable to the employer under the Iowa Employment Security Law, Iowa Code chapter 96.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit his job without good cause attributable to the employer. The Iowa Supreme Court has held that good cause requires "real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the element of good faith." *Wiese v. Iowa Dep't of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). Moreover, the court has advised that "common sense and prudence must be exercised in evaluating all of the circumstances that lead to an employee's quit in order to attribute the cause for the termination." *Id.*

According to the Iowa Supreme Court, good cause attributable to the employer does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Emp't Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *E.g. Raffety v. Iowa Emp't Sec. Comm'n*, 76 N.W.2d 787, 788 (Iowa 1956).

A burden-shifting framework is used to evaluate quit cases. Because an employer may not know why a claimant quit, the claimant has the initial burden to produce evidence suggesting the claimant is not disqualified from benefits under Iowa Code section 96.5(1) a through j and section 96.10. If the claimant produces such evidence, the employer has the burden to prove the claimant is disqualified from benefits under section 96.5(1).

Iowa Administrative Code rule 871-24.25 creates a presumption a claimant quit without good cause attributable to the employer in certain circumstances. Iowa Administrative Code rule 871-24.26 identifies reasons for quitting that are considered for good cause attributable to the employer. Under rule 871-24.26(6)(b), a claimant may be eligible for benefits if:

The claimant was compelled to leave employment because of an illness, injury, or allergy condition that was attributable to the employment. Factors and

circumstances directly connected with the employment which caused or aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health may be held to be an involuntary termination of employment and constitute good cause attributable to the employer. The claimant will be eligible for benefits if compelled to leave employment as a result of an injury suffered on the job.

In order to be eligible under this paragraph "b" an individual must present competent evidence showing adequate health reasons to justify termination; before quitting have informed the employer of the work-related health problem and inform the employer that the individual intends to quit unless the problem is corrected or the individual is reasonably accommodated. Reasonable accommodation includes other comparable work which is not injurious to the claimant's health and for which the claimant must remain available.

Here, there is an insufficient basis in the evidence to conclude that Thomas's working conditions "aggravated the illness, injury, allergy, or disease to the employee which made it impossible for the employee to continue in employment because of serious danger to the employee's health." While the evidence establishes that Thomas's work aggravated his illness, it does not demonstrate that it was impossible for him to continue in employment because of serious danger to his health. Therefore, Thomas voluntarily left employment without good cause attributable to the employer. Benefits are denied.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The July 2, 2020 (reference 01) unemployment insurance decision is affirmed. Thomas voluntarily left employment without good cause attributable to Walmart. Benefits are withheld until such time as Thomas has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Thomas is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if Thomas is eligible for such compensation for the week claimed.

This decision does not address whether Thomas is eligible for PUA. For a decision on such eligibility, Thomas must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

August 19, 2020
Decision Dated and Mailed

bh/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.**
- For more information about PUA, go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>
- To apply for PUA, go to:
<https://www.iowaworkforcedevelopment.gov/pua-application>