IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS

NICOLE GLOVER
Claimant

APPEAL NO: 09A-UI-16688-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09-20-09
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Leaving
871 IAC 24.25(17) – Lack of Child Care

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 2, 2009, reference 02, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on December 2, 2009. The claimant participated in the hearing. Darren Goins, 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 part-time cashier for Wal-Mart from November 8, 2008 to August 26, 2009. She gave the employer a two-week notice that she was voluntarily quitting to go to school. She testified, however, that she left because of child care issues. Her sister moved to Creston to help her care for her son and also took a job with Wal-Mart. The claimant testified the employer was supposed to schedule her and her sister on different shifts so she would have child care but sometimes they were scheduled at the same time. Consequently, she quit because of child care issues and because she was not hired for positions she applied for that would fit the hours she was able to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment without 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.

871 IAC 24.25(17) 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:
>
> (17) The claimant left because of lack of child care.

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. She testified she left because of child care issues and because she was not hired for positions that fit the hours she was able to work. Child care is the claimant's responsibility and the employer was not required to schedule her and her sister on different shifts. Even if it would have been nice of it to do so, business needs may have prevented it from being able to accommodate the claimant's child care needs by scheduling her and her sister on different shifts. Under these circumstances, the administrative law judge must conclude the claimant has not met her burden of proving her leaving was attributable to the employer as defined by Iowa law. Therefore, benefits are denied.

DECISION:

The November 2, 2009, reference 02, decision is affirmed. The claimant voluntarily left her 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.

_____
Julie Elder
Administrative Law Judge

_____
Decision Dated and Mailed

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