

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LIDARYL MAXIE**

Claimant

**APPEAL NO. 15A-UI-10811-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 09/06/15**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from a representative's decision dated September 24, 2015, reference 01, which denied unemployment insurance benefits finding the claimant voluntarily quit work on September 3, 2015 for personal reasons. After due notice was provided, a telephone hearing was held on October 12, 2015. Claimant participated. Although duly notified, the employer did not respond to the notice of hearing and did not participate.

**ISSUE:**

The issue is whether the claimant left employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Lidaryl Maxie was employed by Wal-Mart Stores, Inc. from April 1, 2015 until September 3, 2015 when he left employment due to ongoing issues with supervisory personnel and because of the employer's refusal to transfer an emergency call to him.

Mr. Maxie was employed as a full-time truck unloader working 4:00 p.m. until 1:00 a.m. and was paid by the hour. Claimant's immediate supervisor was Dahat (last name unknown).

Lidaryl Maxie became generally dissatisfied with his employment with Wal-Mart Stores, Inc. based upon recurring issues with his immediate supervisor. Mr. Maxie believed that his supervisor was intentionally rude and often left work early pretending to be ill to avoid the heavy unloading duties. Mr. Maxie complained about the conduct of his supervisor to the facility's assistant manager and the facility's co-manager, however, the issues with the claimant's supervisor remained.

Mr. Maxie made a decision to leave his employment with Wal-Mart Stores, Inc. on or about September 3, 2015 after his supervisor was unwilling to forward emergency calls to him that day. Mr. Maxie's daughter had been hospitalized that day. Emergency calls from his daughter's teacher, Mr. Maxie's wife and his cousin about the girl's condition and hospitalization

had not been forwarded to Mr. Maxie although the employer was aware of the emergency nature of the calls. When informed that company management had refused to allow the emergency calls to come through, Mr. Maxie quit his employment with Wal-Mart Stores, Inc. at that time.

### **REASONING AND CONCLUSIONS OF LAW:**

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. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Board, 492 N.W. 2d 438 (Iowa Ct. App. 1992). 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. See 871 IAC 24.25.

When a person voluntarily quits employment due to dissatisfaction with the work environment or inability to work with other employees, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21) and (6).

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See 871 IAC 24.26(4). The test is whether a reasonable person would have quit under the circumstances. See Aalbers v. Iowa Department of Job Services, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Board, 494 N.W.2d 660 (Iowa 1993).

In this case Mr. Maxie participated personally and provided sworn, firsthand testimony. The claimant left his employment with Wal-Mart Stores, Inc. based upon the employer's ongoing unwillingness to respond to complaints that Mr. Maxie had been making about his supervisor and the manner in which his supervisor treated Mr. Maxie and other crew members. Mr. Maxie reasonably concluded that the supervisor or other management had intentionally acted to his detriment by failing to forward at least three emergency calls to Mr. Maxie although the employer was aware that the calls were related to the emergency hospitalization of his daughter that afternoon. There being no evidence to the contrary, the administrative law judge concludes that the claimant has sustained his burden of proof in showing that he left employment with good cause that was attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's decision dated September 24, 2015, reference 01, is reversed. Claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, provided the claimant is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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