

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

ANN M NEWTON  
1808 – 27<sup>TH</sup> ST  
SIOUX CITY IA 51104

WAL-MART STORES INC  
C/O FRICK UC EXPRESS  
PO BOX 283  
ST LOUIS MO 63166-0283

Appeal Number: 06A-UI-01019-S2T  
OC: 12/25/05 R: 01  
Claimant: Respondent (2)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit  
Section 96.3-7 – Overpayment

STATEMENT OF THE CASE:

Wal-Mart Stores (employer) appealed a representative's January 17, 2006 decision (reference 01) that concluded Ann Newton (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 14, 2006. The claimant participated personally. The employer participated by Mark Otto, Assistant Manager.

#### 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 June 2, 2003, as a full-time deli lead. The employer issued the claimant two warnings in December 2005, for failure to rotate items, change prices and order properly so there would be no out-of-stock items. The employer asked the claimant if she needed help in performing her job. The claimant refused help.

On December 26, 2005, the employer reprimanded the claimant and demoted her to associate. The employer gave the claimant two options of departments in which she could work. The employer asked the claimant to think about her choice on her day off.

On December 28, 2005, the claimant arrived at the worksite and demanded a meeting with the employer. The employer agreed to the meeting but asked the claimant to be respectful. The claimant told the employer she was quitting and the employer would hear from her attorney. The employer left the room to get the exit interview papers. The claimant left the premises.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit work without good cause attributable to the employer. For the following reasons the administrative law judge concludes she did.

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(28) 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:

- (28) The claimant left after being reprimanded.

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). The claimant's intention to voluntarily leave work was evidenced by her words and actions. She told the employer that she was leaving and quit work. When an employee quits work after having been reprimanded, her leaving is without good cause attributable to the employer. The claimant left work after having been reprimanded. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

The claimant has received benefits in the amount of \$1,024.00 since filing her claim herein. Pursuant to this decision, those benefits now constitute an overpayment which must be repaid.

DECISION:

The representative's January 17, 2006 decision (reference 01) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The claimant is overpaid benefits in the amount of \$1,024.00.

bas/pjs