

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JENNIFER SIMPSON**  
Claimant

**APPEAL NO. 13A-UI-06530-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**OC: 05/12/13**  
**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

The claimant, Jennifer Simpson, filed an appeal from a decision dated May 29, 2013, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on August 7, 2013. The claimant participated on her own behalf. The employer, Wal-Mart, participated by Assistant Manager Patrick Flick.

**ISSUE:**

The issue is whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Jennifer Simpson was employed by Wal-Mart from June 24, 2012 until April 24, 2013 as a part-time deli associate. On April 21, 2013, Assistant Manager Tony Othon spoke with Ms. Simpson and several others about their attendance. The claimant had been calling in absent, coming in late or leaving early which had resulted in several write-ups. The assistant manager told her and others that if there were any further incidents he could no longer simply write them up; he would have to fire them.

Ms. Simpson felt this was an ultimatum and notified Linn Manch-Weets in human resources and then Assistant Manager Patrick Flick she was quitting. She cited "lack of hours" as one of the reasons but she could have worked more hours if she had not been calling in absent. In addition she mentioned she had another job. This job was in fact only an unpaid training period of six to eight months for a potential position with the Social Security Administration.

**REASONING AND CONCLUSIONS OF LAW:**

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(3) 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:

(3) The claimant left to seek other employment but did not secure employment.

The claimant quit to seek another job. She knew the job would not start until after several months of training and she would be without resources until she finished the training. The employer did not give her an ultimatum to quit or be fired, only that her attendance needed to improve or she would be discharged. As to the loss of hours, she was scheduled for the same amount of hours but did not work them due to her absenteeism.

The record establishes the claimant quit without good cause attributable to the employer and she is disqualified.

**DECISION:**

The representative's decision of May 29, 2013, reference 01, is affirmed. Jennifer Simpson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/pjs