

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GINA V ROBINSON
Claimant

APPEAL NO. 07A-UI-01618-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES
Employer

**OC: 01/14/07 R: 04
Claimant: Appellant (1)**

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Gina Robinson filed a timely appeal from the February 6, 2007, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 1, 2007. Ms. Robinson participated and presented additional testimony through Assistant Manager Bobby Frank and Wal-Mart Associate Marge Newsom. Assistant Manager Dusty Marmion represented the employer.

ISSUE:

Whether the claimant's voluntary quit was for good cause attributable to the employer. It was not.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Gina Robinson was employed by Wal-Mart as a part-time cashier at the time she submitted her written resignation. Ms. Robinson's resignation letter was dated September 1. Ms. Robinson submitted the letter sometime between September 1 and 4. Ms. Robinson also informed Assistant Manager Bobby Frank that she would be leaving the employment on September 11. Ms. Robinson did not appear for any of her scheduled shifts after September 5. Ms. Robinson left the employment at Wal-Mart to become self-employed as an in-home daycare provider. Ms. Robinson quit, in part, due to her dislike of the work environment and the prevalence of gossip in the workplace.

Since leaving the employment at Wal-Mart, Ms. Robinson has provided in-home daycare services on a full-time basis. Ms. Robinson recently experienced a reduction in the number of children she supervises and the corresponding reduction in income prompted Ms. Robinson's claim for benefits. Ms. Robinson had placed her clients on notice that if she accepts another offer of employment, the clients will need to find other daycare arrangements on short notice.

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.

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 698, 612 (Iowa 1980) and Peck v. EAB, 492 N.W.2d 438 (Iowa 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.

The evidence in the record indicates that Ms. Robinson quit the employment due to dissatisfaction with the work environment and quit to pursue self-employment as a full-time in-home daycare provider. A quit due to dissatisfaction with the work environment is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(21). Where a person voluntarily quits employment to pursue self-employment, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(19).

Based on the evidence in the record and application of the appropriate law, the administrative law judge concludes that Ms. Robinson voluntarily quit the employment without good cause attributable to the employer. Accordingly, Ms. Robinson is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Robinson.

DECISION:

The Agency representative's February 6, 2007, reference 01, decision is affirmed. The claimant voluntarily quit the employment without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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