

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PATRICE E DAVIDSON

Claimant

APPEAL NO. 08A-UI-05526-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

**OC: 06/24/07 R: 02
Claimant: Respondent (2)**

Section 96.5(1) – Quit
Section 96.3(7) – Overpayment

STATEMENT OF THE CASE:

The employer, Wal-Mart, filed an appeal from a decision dated June 3, 2008, reference 02. The decision allowed benefits to the claimant, Patrice Davidson. After due notice was issued, a hearing was held by telephone conference call on June 30, 2008. The claimant participated on her own behalf. The employer participated by Human Resources Joyce Glitch. Exhibit One was admitted into the record.

ISSUE:

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

FINDINGS OF FACT:

Patrice Davidson was employed by Wal-Mart from October 27, 2007 until April 29, 2008, as a full-time assistant manager. She received eight weeks of training before assuming her duties at the store in Grinnell, Iowa.

Ms. Davidson tried very hard to do her job but was not “catching on” to many of her regular duties. She was given additional training but still did not improve. This caused Store Manager Jeremy Lyons to become exasperated and he made some comments to the claimant she did not like. He told her the other assistant managers should not have to do her job for her, and that she really did not seem to know what she was doing when it came to making changes on the schedule and marking them. On the day she resigned he assigned her to finalize the payroll and do the “exceptions” on the computer but she said she did not know how to do them. The manager gave the assignment to another assistant manager, “walked” him through it while the claimant observed, and she felt “humiliated” by his treatment.

At one point that day the claimant asked Mr. Lyons if he wanted her to “leave” and he said if that was what she wanted to do, to write a letter to Joyce, the human resources manager. She did nothing at that time but after calling a few friends from the personnel manager’s office, she decided to quit and notified Mr. Lyons over the store telephone.

Patrice Davidson has received unemployment benefits since filing an additional claim with an effective date of May 4, 2008.

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(19) and (22) provide:

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:

(19) The claimant left to enter self-employment.

(22) The claimant left because of a personality conflict with the supervisor.

The claimant quit because she was not learning her job duties after eight weeks of training and four months on the job. The manager was apparently exasperated with her lack of progress and let her know it. Additional training was provided for her but she never brought her complaints about the manager to the human resources representative, or anyone else despite Wal-Mart's open door policy. She stated she felt "humiliated" when asked to do a job she had not yet learned to do and the job was given to someone else. The administrative law judge considers the manager did not have any other choice but to give the job to someone else since the claimant admitted she had not learned how to do it.

Ms. Davidson's reason for quitting was a lack of a good working relationship with her supervisor. She was not doing a satisfactory job or making necessary progress and felt "humiliated" when the manager would let her know this. "Good cause" for leaving employment must be that which is reasonable to the average person, not to the overly sensitive individual or the claimant in particular. Uniweld Products v. Industrial Relations Commission, 277 So.2d 827 (Florida App. 1973). The claimant was overly sensitive to the fact she was not doing well at her job and her decision to quit because of these problems is not good cause attributable to the employer.

Iowa Code section 96.3-7 provides:

7. Recovery of overpayment of benefits. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to

the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant has received unemployment benefits to which she is not entitled. These must be recovered in accordance with the provisions of Iowa law.

DECISION:

The representative's decision of June 3, 2008, reference 02, is reversed. Patrice Davidson is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible. She is overpaid in the amount of \$535.00.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/css