

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

MIKE A COLLINS
2720 DACE AV
SIOUX CITY IA 51105

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

Appeal Number: 04A-UI-08835-SWT
OC: 07/11/04 R: 01
Claimant: Appellant (1)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated August 6, 2004, reference 03, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on September 9, 2004. The parties were properly notified about the hearing. The claimant participated in the hearing. Bruce Schultz participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a maintenance worker from September 2, 2002 to May 25, 2004. On May 25, 2004, the claimant was suspended for the day with pay because of attendance issues, including being absent without notice to the employer on May 23, 2004. He was scheduled to return to work on May 26, 2004. Instead of returning to work, the claimant came in on May 26, 2004, and turned in his discount card and badge and

stated that he could no longer work for the employer. The store co-manager asked the claimant if he was sure that he wanted to make that decision, and the claimant stated that he was sure. The claimant quit because he felt his supervisor was constantly calling him in to the office and expected more work from him. The claimant was never discharge from his job and would have been allowed to return to work on May 26, 2004 if he had chosen to return to work.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

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.

The claimant quit work after being suspended for one day for attendance issues. The claimant contended that he was informed by another employee that he was discharged, but the evidence establishes that the claimant was not discharged and could not reasonably rely on the word of another employee who was not a supervisor that he had been fired. The evidence does not show intolerable working conditions or other good cause for quitting, as defined by the unemployment insurance law.

DECISION:

The unemployment insurance decision dated August 6, 2004, reference 03, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

saw/b