

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARLON BATTLES

Claimant

WAL-MART STORES INC

Employer

APPEAL NO. 08A-UI-08914-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/31/08 R: 02
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Marlon Battles filed an appeal from a representative's decision dated September 23, 2008, reference 01, which denied benefits based upon his separation from Wal-Mart Stores Inc. After due notice was issued, a hearing was held by telephone on October 20, 2008. Mr. Battles participated personally. The employer participated by Mr. David Mayer, Assistant Manager.

ISSUE:

The issue in this matter is whether the claimant quit for good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from October of 2006 until July 1, 2008 when he voluntarily quit employment. Mr. Battles was employed as a full-time sales associate in the company's deli department.

Mr. Battles left his employment with Wal-Mart Stores because of declining health. The claimant was having medical difficulties with his foot and shoulder and was experiencing some difficulty in performing the duties of his job. Mr. Battles voluntarily quit employment after being absent for a number of days. The claimant was not advised to leave employment by his physician. Work continued to be available to Mr. Battles at the time that he voluntarily quit his work with Wal-Mart Stores.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that Mr. Battles left this employment with good cause that was attributable to the employer. It does not.

The evidence in the record establishes that Mr. Battles had health concerns that were not caused or aggravated by his employment with Wal-Mart and that the claimant made a personal choice to quit working until his condition improved. Work continued to be available to

Mr. Battles at the time that he chose to leave. Mr. Battles was not advised to leave employment by his physician.

871 IAC 24.25(30) 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:

(30) The claimant left due to the commuting distance to the job; however, the claimant was aware of the distance when hired.

For the reasons stated herein the administrative law judge concludes that the claimant voluntarily quit employment for reasons not attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated September 23, 2008, reference 01, is affirmed. The claimant voluntarily quit work without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, providing that he meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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