

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN K DAVIS**  
Claimant

**APPEAL NO. 09A-UI-19215-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**  
Employer

**Original Claim: 11/08/09  
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated December 7, 2009, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on February 3, 2010. Claimant participated with witness Tenesion Davis. Employer failed to respond to the hearing notice and did not participate.

**ISSUE:**

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

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on April 14, 2009. Claimant missed three days due to illness. Claimant did not call in to report his absences until the last day. Claimant had a formal warning on his record for absenteeism. Claimant had missed other days due to personal reasons during the last five months.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he missed work three days in a row. Claimant did not call in until the third day. Failing to report in for two days is job abandonment. The prior warning for absenteeism put claimant on notice of his need to report in. Claimant knew his job was in jeopardy yet failed to report his absences. This is job abandonment. Benefits withheld.

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.

**DECISION:**

The decision of the representative dated December 7, 2009, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

mdm/kjw