

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NOAH BAAS
Claimant

APPEAL NO. 09A-UI-01142-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 11-16-08 R: 01
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 16, 2009, reference 01, decision that denied benefits. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on February 9, 2009. The claimant participated in the hearing. John Slauson, Co-Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant voluntarily left his employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time unloader for Wal-Mart from February 23, 2008 to July 26, 2008. In early July 2008, the claimant was asked to work two days in addition to his regularly scheduled hours. He did so and completed a manual time record, which he gave to his manager, Mike. He was not paid for those hours and asked Mike several times about the manual time record he completed and was told it was either filed or lost. The claimant spoke to human resources and they said there was not anything they could do about the claimant being paid for those days without the manual time record. Finally, the claimant submitted his two-week notice to an hourly support manager because he was not paid for hours worked. He did not notify upper level management of his decision to quit. The claimant was in the process of moving to Clarion from Fort Dodge and planned to commute the approximate 35 miles each way to work until the pay situation came up.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left his employment with 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.

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. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2. In the absence of an agreement to the contrary, an employer's failure to pay wages when due constitutes good cause for leaving the employment. Deshler Broom Factory v. Kinney, 140 Nebraska 889, 2 N.W.2d 332 (1942). The employer asked the claimant to work two extra shifts and he agreed to do so. When employees work shifts for which they are not scheduled, they must complete a manual time record and give it to their manager. In this case, the claimant wrote out his time record but his manager repeatedly told him he either filed it or could no longer find it but in either case he no longer had the claimant's manual time record. The claimant went to the human resources department but was told there was nothing to be done without the manual time record. After not receiving any satisfaction regarding his pay for two shifts worked, the claimant submitted his two-week notice. Under these circumstances, the administrative law judge concludes that the claimant's leaving was for good cause attributable to the employer as defined by Iowa law. Therefore, benefits are allowed.

DECISION:

The January 16, 2009, reference 01, decision is reversed. The claimant voluntarily left his employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/kjw