

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUZANNE M OETKER
Claimant

APPEAL NO. 13A-UI-01404-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 12/30/12
Claimant: Appellant (2)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated February 1, 2013, reference 01, which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on March 7, 2013. The claimant participated personally. Although duly notified, the employer did not participate.

ISSUE:

At issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Susan Oetker was employed by Wal-Mart Stores from May 2012 until September 29, 2012 when she voluntarily left employment. Ms. Oetker was employed as a part-time customer service worker and was paid by the hour.

Ms. Oetker left her employment with Wal-Mart Stores on September 29, 2012 after she reasonably concluded that she had been treated unfairly by the company. Ms. Oetker had been selected by the company as a candidate to be promoted to customer service manager. The claimant agreed to become a candidate and was told by the company that she as well as other candidates would be interviewed and that a candidate would be chosen based upon the best qualifications.

The claimant was not initially promoted as there were not sufficient candidates. Subsequently the employer re-scheduled the interviewing process and the claimant was specifically included as one of three candidates to be interviewed. The claimant waited all throughout the entire day that she was to be interviewed but was not called. Ms. Oetker was off work the next day and when she returned to work the following day she was informed that the two other candidates had been interviewed and both had been chosen for promotions to the customer service manager position. The claimant felt that it was unfair that she had not been interviewed as promised and went to her immediate supervisor as well as the store director. When no reasonable explanation was provided except that the jobs had been given and "there could be

nothing done about it now” Ms. Oetker left her employment with the company believing that the company had intentionally treated her unfairly.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes good cause for leaving attributable to the employer. It does.

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.

The claimant has the burden of proving that the leaving was for good cause attributable to the employer. See Section 96.6.2 of the Iowa Employment Security Law.

In this matter the claimant followed a reasonable course of action by complaining to company management about the manner in which she had been treated regarding a promotion to the position of customer service manager. The claimant had been selected as a candidate by the company and promised an interview. The claimant had remained available for the interview but was not called. Two other candidates were selected without the claimant being included in the interview process as agreed to by the company and required by company policy.

Although the employer had not followed its own policies in the interviewing process and had unfairly selected two other candidates for promotion without interviewing the claimant, the employer was unwilling to make any changes or accommodations. The claimant reasonably concluded this conduct was patently unfair to her and quit her employment.

There being no evidence to the contrary, the administrative law judge concludes that the claimant has established her burden of proof in establishing that she left employment with good cause that was attributable to this employer. Benefits are allowed providing the claimant is otherwise eligible.

DECISION:

The representative's decision dated February 1, 2013, reference 01, is reversed. The claimant left employment with good cause attributable to the employer. Unemployment insurance benefits are allowed, providing the claimant meets all other eligibility requirements of Iowa law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css