

**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 BLOOMHUFF  
22 JEFF DR  
MUSCATINE IA 52761**

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

**MIKE A BLOOMHUFF  
c/o TAMMY BLOOMHUFF  
2618 LUCAS ST  
MUSCATINE IA 52761**

**Appeal Number: 04A-UI-09897-RT  
OC: 08-15-04 R: 04  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Mike A. Bloomhuff, filed a timely appeal from an unemployment insurance decision dated September 7, 2004, reference 01, denying unemployment insurance benefits to him. After due notice was issued, a telephone hearing was held on October 5, 2004 with the claimant participating. Jerry Driskell, Co-Manager of the employer's store in Muscatine, Iowa, participated in the hearing for the employer, Wal-Mart Store, Inc. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant. The first notice sent to the claimant was returned "moved, left no address." The administrative law judge called the number for the claimant in Workforce Development records and spoke to someone who gave the administrative law judge a new

address. The administrative law judge told the person with whom he spoke about the hearing and also sent another notice to the new address. The claimant received the notice and participated in the hearing.

#### FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: The claimant was employed by the employer first as a part-time and then as a full-time overnight stocker from September 9, 2003 until he voluntarily quit on April 28, 2004. At that time, the claimant simply quit coming to work but did intend to quit. The claimant testified that he quit because his job was not correlated to him meaning his hours and wages. However, when the claimant was first employed, he was promised to be paid \$7.54 per hour and he was paid that amount. In early April 2004, the claimant received a raise to \$9.14 per hour. The claimant was not promised any other wages. Concerning the hours when the claimant was first hired, he was hired part-time but he worked full-time hours and he was elevated to full-time status in April 2004. Full-time status at the employer is 34 hours or more. The claimant never worked less than 36 hours. The claimant had to commute to the employer but the employer had never promised any transportation to the claimant going to and from work. The claimant did not feel that he was properly trained but could provide no specifics as to what training was lacking. The claimant has a hearing disability but was unable to demonstrate how this hearing disability prompted him to quit. The claimant did express concerns about these matters to the employer but he never indicated or announced an intention to quit if any of the concerns were not addressed by the employer. Although the claimant has received no unemployment insurance benefits since filing for such benefits effective August 15, 2004, the claimant is shown as being overpaid unemployment insurance benefits in the amount of \$149.00 from 1995.

#### REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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(1), (13), (21), (27) provide:

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:

- (1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.
- (13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.
- (21) The claimant left because of dissatisfaction with the work environment.
- (27) The claimant left rather than perform the assigned work as instructed.

The parties concede that the claimant left his employment voluntarily. The issue then becomes whether the claimant left his employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that he has left his employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet his burden of proof to demonstrate by a preponderance of the evidence that he left his employment with the employer herein with good cause attributable to the employer. The claimant repeatedly testified that he quit because his job was not correlated to him. When pushed the claimant finally said that he was not paid wages he expected. However, even the claimant conceded that he was paid the wages promised. The claimant began at a wage of \$7.54 per hour and was raised to \$9.14 per hour in April 2004. The claimant also testified that his job was not correlated to him because of his hours. However, it appears that the claimant was hired part-time and became full-time in early April 2004. The claimant was not promised otherwise. Although the claimant began as part-time, he worked full-time hours and never worked less than 36 hours per week and the employer considers full-time to be 34 hours or more. It appears to the administrative law judge that the claimant was always working full-time. The claimant testified something to the effect that he did not have transportation to commute but there is no evidence that the claimant was ever promised any transportation by the employer. The claimant also testified that he did not believe he was properly trained but did not specify as to how he was not properly trained. Finally, the claimant testified that he had a hearing handicap but failed to demonstrate how this hearing handicap caused his working conditions to be unsafe, unlawful, intolerable or detrimental or that caused him to quit. The administrative law judge must conclude on the record here that there is not a preponderance of the evidence that claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that he was subjected to a substantial change in his contract of hire. Rather, the evidence indicates that the claimant quit because of a dissatisfaction with wages and hours but he knew the rate of pay and his hours when hired and at all other times relevant hereto. Leaving work voluntarily because of a dissatisfaction with the wages or hours when knowing the rate of pay and hours is not good cause attributable to the employer. The claimant said something about lack of transportation but leaving work voluntarily for a lack of transportation to the work site when the employer has not agreed to furnish transportation is not good cause attributable to the employer. There is some evidence that the claimant was dissatisfied with his work environment and left rather than perform the assigned work as instructed but, again, this is not good cause attributable to the employer. Although the claimant testified he expressed some concerns to the employer about these matters, the claimant even conceded that he never indicated or announced an intention to quit if any of his concerns were not addressed by the employer.

In summary, and for all the reasons set out above, the administrative law judge concludes that the claimant left his employment voluntarily without good cause attributable to the employer, and, as a consequence, he is disqualified to receive unemployment insurance benefits.

Unemployment insurance benefits are denied to the claimant until or unless he requalifies for such benefits.

DECISION:

The representative's decision of September 7, 2004, reference 01, is affirmed. The claimant, Mike A. Bloomhuff, is not entitled to receive unemployment insurance benefits, until or unless he requalifies for such benefits, because he left his employment voluntarily without good cause attributable to the employer.

tjc/kjf