

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**CHARLES E WEIR**  
Claimant

**WALMART INC**  
Employer

**APPEAL 20A-UI-06686-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/12/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the June 11, 2020 (reference 01) unemployment insurance decision that denied benefits based upon him voluntarily quitting work without good cause attributable to the employer. The parties were properly notified of the hearing. A telephone hearing was held on July 27, 2020. The claimant, Charles E. Weir, participated personally. Kayla L. Sproul, Attorney at Law, represented the claimant. The employer, Walmart Inc., did not participate. Claimant's Exhibit A was admitted. The administrative law judge took official notice of the claimant's administrative records.

**ISSUE:**

Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed part-time as a cashier at the employer's retail store. He began working for this employer in July of 2010 and his employment ended on April 12, 2020 when he voluntarily quit.

His job duties as a cashier in the self-checkout aisle included running up to six separate cash register machines and assisting customers as they came into the self-checkout aisle. His job duties including him coming within close contact to customers. There were no physical barriers in place between him and the customers. Claimant was not given any personal protective equipment to protect himself from the potential exposure to the Coronavirus from customers. The employer did not require customers to engage in social distancing while in the store; the employer did not require customers to wear masks for face shields while in the store; the employer did not restrict the number of customers in the store at one time; the employer did not take temperatures or evaluate potential symptoms of customers upon entrance to the store.

Prior to quitting, the claimant expressed his concerns with the work environment to a representative from human resources. He also disclosed that he had pre-existing medical conditions that predisposed him to having severe complications if he were to contract the Coronavirus. See Exhibit A. Claimant's physician recommended that he not work at Walmart

due to the amount of pedestrian traffic through the store and his risk of exposure to the Coronavirus. See Exhibit A. There were no remote jobs or other jobs in isolation that the claimant could have been transferred to. Because of these conditions at work, claimant tendered his verbal resignation to voluntarily quit.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code §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.

Claimant had an intention to quit and carried out that intention by tendering a verbal resignation. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

"Good cause attributable to the employer" does not require fault, negligence, wrongdoing or bad faith by the employer. *Dehmel v. Employment Appeal Bd.*, 433 N.W.2d 700, 702 (Iowa 1988)("[G]ood cause attributable to the employer can exist even though the employer is free from all negligence or wrongdoing in connection therewith"); *Shontz v. Iowa Employment Sec. Commission*, 248 N.W.2d 88, 91 (Iowa 1976)(benefits payable even though employer "free from fault"); *Raffety v. Iowa Employment Security Commission*, 76 N.W.2d 787, 788 (Iowa 1956)("The good cause attributable to the employer need not be based upon a fault or wrong of such employer."). Good cause may be attributable to "the employment itself" rather than the employer personally and still satisfy the requirements of the Act. *Raffety*, 76 N.W.2d at 788 (Iowa 1956).

Claimant contends that he voluntarily quit due to intolerable working conditions, or unsafe working conditions, because he was not properly protected from exposure to the Coronavirus from customers. As such, if claimant establishes that he left due to intolerable or detrimental or unsafe working conditions, benefits would be allowed. Generally, notice of an intent to quit is required by *Cobb v. Employment Appeal Board*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Employment Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Employment Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). These cases require an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. Accordingly, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added, however, to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

Iowa Admin. Code r. 871-24.26(2) provides:

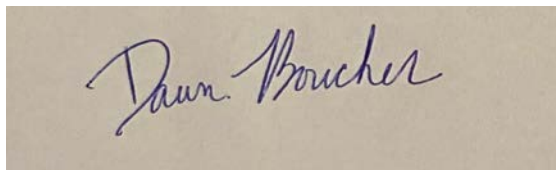
Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993). In this case, a reasonable person would have believed that claimant's working conditions were unsafe, intolerable and detrimental to him due to the lack of personal protective equipment provided to him to perform his job duties and the lack of other employer policies in place that would have limited claimant's risk of exposure to the Coronavirus from customers. As such, the claimant's voluntary quitting was for a good-cause reason attributable to the employer according to Iowa law. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The June 11, 2020 (reference 01) unemployment insurance decision is reversed. Claimant voluntarily quit employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.



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Dawn Boucher  
Administrative Law Judge

August 3, 2020  
Decision Dated and Mailed

db/scn