

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

NANCY A CHAPMAN
303 AEROE ST
KIMBALLTON IA 51531

WAL-MART STORES INC
c/o THE FRICK COMPANY
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06189-S2T
OC: 02/13/05 R: 01
Claimant: Respondent (2)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Wal-Mart Stores (employer) appealed a representative's June 1, 2005 decision (reference 04) that concluded Nancy Chapman (claimant) was discharged and there was no evidence of willful or deliberate misconduct. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 29, 2005. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Jeremy Smith, Assistant Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on February 23, 2005, as a full-time in stock supervisor. The claimant did not appear for work or notify the employer of her absence on or about March 28 and 29, 2005. On March 31, 2005, the claimant notified the employer she would not be at work. The employer asked the claimant to come in and talk. The claimant complied. The claimant told the employer she could not work because she had been too drunk. The employer asked the claimant if she needed a leave of absence, but the claimant declined the offer. She said she was going to the doctor on April 1, 2005, and would notify the employer of her condition. The employer never heard from the claimant again. She did not appear for work after March 26, 2005. Continued work was available to the claimant had she appeared for work.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant voluntarily quit without good cause attributable to the employer. For the following reasons, the administrative law judge concludes she did.

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.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions; she stopped appearing for work. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's June 1, 2005 decision (reference 04) is reversed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

bas/kjw