

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY A HOWARD
Claimant

APPEAL NO. 11A-UI-00144-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 11-21-10
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the December 20, 2010, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 10, 2011. The claimant did participate. The employer did participate through Lindsey Hanson, Operations Assistant Manager.

ISSUE:

Did the claimant voluntarily quit her employment without 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 sales associate part time beginning March 8, 2005 through October 11, 2010 when she voluntarily quit. The claimant had been warned about her attendance in August and September. She was a no-call-no-show for work on September 4. She failed to ask for October 10 off for her wedding despite knowing three months in advance that she was going to want the day off to get married. The claimant's manager, Lisa, repeatedly told the claimant that if she wanted vacation time she had to fill out her request on the computer in advance of the schedule just as all other employees did. The claimant had made requests on the computer before, but simply did not want to follow the employer's procedure for requesting time off for vacation. The employer posts the schedule three weeks in advance. Employees are told to use the computer at work to submit their vacation requests prior to the schedule being processed. The claimant did not show up or call in for her last three scheduled work shifts, October 10, 16 and 17 in contravention of the employer's policy, a copy of which had been given to her. The claimant did not properly ask for vacation time for October 16 and 17. The administrative law judge is not persuaded that the claimant was ever told by Lisa that she could have the time off. Lisa was the manager who was constantly telling the claimant to use the computer system to request time off as all other employees did.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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.

871 IAC 24.25(4) provides:

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 § 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 § 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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Inasmuch as the claimant failed to report for work or notify the employer for three consecutive workdays in violation of the employer's policy, the claimant is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The December 20, 2010 (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs