

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROGER B TROXEL
Claimant

APPEAL NO. 08A-UI-08970-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09/07/08 R: 03
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Roger Troxel filed an appeal from a representative's decision dated October 1, 2008, reference 01, which denied benefits based on his separation from Wal-Mart Stores, Inc. After due notice was issued, a hearing was held by telephone on October 21, 2008. Mr. Troxel participated personally. The employer participated by Dave Armstrong, Co-Manager, and Dave Pickens, Assistant Manager. Exhibits One and Two were admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Mr. Troxel was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Troxel was employed by Wal-Mart from June 19, 2007 until September 5, 2008. He was employed full time as an inventory control specialist. His job involved unloading trucks, pulling freight, and stocking shelves. He voluntarily quit the employment.

When he first began the employment, Mr. Troxel was not required to unload trucks or pull freight. These duties were added in October or November of 2007. He was told the additional duties would only be temporary until the employer was able to hire individuals to unload and pull freight. Mr. Troxel did not complain about any problems he was having performing the job because he thought the assignment would be temporary. During the first week of August of 2008, he was told that unloading and pulling freight would become a permanent part of his job description. He still did not advise anyone that he was having problems performing the job or that some tasks were causing physical complaints.

Mr. Troxel was periodically disciplined because of his unsatisfactory attendance. On September 4, 2008, he was given a "decision-making day" to determine what steps he would take to improve his attendance so that he could continue in the employment. The next day, he told the employer he was quitting because he could not keep up with the job. He indicated on the exit interview that he was leaving due to health reasons. He was not advised by a doctor to leave the employment. He never advised the employer that he intended to quit if not provided reasonable accommodations. When he told the employer he was quitting, the employer reviewed with him jobs that were currently vacant.

There were no vacancies Mr. Troxel felt he was able to perform. Continued work as an inventory control specialist would have been available if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). Mr. Troxel quit his employment because some of his work duties caused pain and discomfort in his hands and wrist. However, he was not advised by a doctor to leave the employment. An individual who leaves employment because of a medical condition either caused or aggravated by the employment must first put the employer on notice of the problem and must tell the employer he intends to quit if the problem is not corrected or if his condition is not accommodated. See Suluki v. Employment Appeal Board, 503 N.W.2d 402 (Iowa 1993).

In the case at hand, Mr. Troxel did not make the employer aware of any medical problems until he was on the final stage of discipline for attendance. The administrative law judge appreciates that he did not initially make an issue of the additional work duties because he felt they would only be temporary. However, he knew the first week of August that the duties were now permanent. He also knew he had been experiencing some problems as a result of the duties. However, he did not make an issue of it the first week in August when it was announced. He continued to work an additional month. Therefore, he acquiesced to the additional duties becoming part of his job description.

Mr. Troxel had ample opportunity to put Wal-Mart on notice that he needed an accommodation because unloading and pulling freight were causing him pain. He did not do so prior to announcing his decision to quit. As such, he did not allow the employer a reasonable opportunity to try to resolve the issue and prevent his quit. For the reasons cited herein, it is concluded that Mr. Troxel left his employment for no good cause attributable to the employer. Therefore, benefits are denied.

DECISION:

The representative's decision dated October 1, 2008, reference 01, is hereby affirmed. Mr. Troxel voluntarily quit his employment for no good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly job insurance benefit amount, provided he satisfies all other conditions of eligibility.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw