

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELANIE D SEDAM
Claimant

APPEAL NO. 18A-UI-10670-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WALMART INC
Employer

OC: 09/23/18
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Melanie Sedam filed a timely appeal from the October 23, 2018, reference 01, decision that disqualified her for benefits and that relieved the employer's account of liability for benefits, based on the deputy's conclusion that Ms. Sedam voluntarily quit on July 23, 2018 without good cause attributable to the employer. After due notice was issued, a hearing was held on November 9, 2018. Ms. Sedam participated. The employer did not participate in the hearing. On November 8, 2018, the employer registered a telephone number for the hearing and designated Assistant Manager Christina Halpain as the employer's representative and sole witness. At the time of the hearing, Ms. Halpain was not available at the number the employer registered for the hearing. The administrative law judge made two attempts to reach Ms. Halpain at the number the employer registered for the hearing. On each attempt, the administrative law judge stayed on the line for an extended period but no one answered at the number the employer registered for the hearing. The hearing in this matter was consolidated with the hearing in Appeal Number 18A-UI-10671-JTT. The administrative law judge took official notice of the Agency's record of benefits disbursed to the claimant.

ISSUE:

Whether Ms. Sedam voluntarily quit the employment for good cause attributable to the employer.

Whether Ms. Sedam was discharged for misconduct in connection with the employment.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Melanie Sedam was employed by Walmart, Inc. as a full-time produce associate from July of 2016 until July 23, 2018. Ms. Sedam worked at the Walmart store in Muscatine. Ms. Sedam's shift started at 4:00 a.m. and ended at 1:00 p.m. Ms. Sedam lived 45 minutes from the store. Ms. Sedam's duties involved assisting with unloading freight from trucks and moving merchandise to the sales floor to stock shelves. Ms. Sedam's immediate supervisor, Courtney (last name unknown), supervised the unloading of the trucks. The store's assistant managers were above Courtney in the chain of command. When Ms. Sedam arrived for work on

July 23, 2018, she encountered about half an inch of standing water on the floor behind a cooler. Ms. Sedam used a floor squeegee to push the water into the floor drain. In the process of completing that task, Ms. Sedam splashed water onto her mesh-topped athletic shoes, thereby getting her shoes and socks wet. Ms. Sedam told Courtney that her shoes and socks were wet. Ms. Sedam did not seek a means by which to dry her shoes and socks. Ms. Sedam lacked funds to purchase a new pair of socks. Soon thereafter, Ms. Sedam began to assist with unloading freight from a truck. Courtney assigned Ms. Sedam to move merchandise from a pallet to storage shelves inside a walk-in cooler. Ms. Sedam continued to perform the same work inside the cooler for 1.5 to 2 hours with cold, wet feet. Ms. Sedam then asked Courtney whether she could move the pallet outside the cooler to the hallway while she continued to dismantle the pallet of freight. Because the freight required refrigeration, Courtney denied Ms. Sedam's request to move the pallet to outside the walk-in cooler. Ms. Sedam then said she was leaving. Ms. Sedam knew that she had already exceeded the allowable number of attendance points in connection with prior absences. Courtney told Ms. Sedam that if she left without approval, she would be fired. Ms. Sedam knew Courtney did not have the authority to discharge her from the employment. Ms. Sedam made a less than effective attempt to locate an assistant manager. She looked in different areas of the store for an assistant manager, but did not think to page the assistant manager or have someone else page the assistant manager for her. Ms. Sedam then left the workplace without authorization well before the end of her shift. Ms. Sedam did not return or otherwise make further contact with the employer. Instead, Ms. Sedam assumed she was fired.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.5-1 provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. See *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 698, 612 (Iowa 1980) and *Peck v. EAB*, 492 N.W.2d 438 (Iowa App. 1992). 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. See 871 IAC 24.25.

Quits due to intolerable or detrimental working conditions are deemed to be for good cause attributable to the employer. See Iowa Administrative Code rule 871-24.26(4). The test is whether a reasonable person would have quit under the circumstances. See *Aalbers v. Iowa Department of Job Service*, 431 N.W.2d 330 (Iowa 1988) and *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (1993). Aside from quits based on medical reasons, prior notification of the employer before a resignation for intolerable or detrimental working conditions is not required. See *Hy-Vee v. EAB*, 710 N.W.2d 213 (Iowa 2005).

The weight of the evidence in the record establishes a voluntary quit without good cause attributable to the employer. Ms. Sedam knew that Courtney did not have final say over whether Ms. Sedam continued in her employment. This was demonstrated by Ms. Sedam's search for an assistant manager on the last day of the employment, following Courtney's refusal to let Ms. Sedam move items that required refrigeration to outside the walk-in cooler. On the

last day of the employment, Ms. Sedam was legitimately concerned about her wet socks and shoes. It would have been uncomfortable to work in a refrigerated space with wet feet. However, the weight of the evidence establishes that there were multiple reasonable options available to Ms. Sedam short of walking off the job and not returning to work. A reasonable person in Ms. Sedam's circumstances would have requested a break to address the issues and would have used the wall-mounted dryer in the restroom to resolve the issue. A reasonable person might have sought to borrow a blow dryer from the in-store salon. A reasonable person would have made a more effective attempt to locate an assistant manager. A reasonable person would not have felt compelled to quit the employment under the circumstances.

Because Ms. Sedam voluntarily quit the employment without good cause attributable to the employer, she is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. Ms. Sedam must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The October 23, 2018, reference 01, decision is affirmed. The claimant voluntarily quit the employment on July 23, 2018 without good cause attributable to the employer. The claimant is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/scn