

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHANELL M PEAVY
Claimant

WALMART INC
Employer

APPEAL 21A-UI-21597-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 07/11/21
Claimant: Appellant (1R)**

Iowa Code § 96.5(1) – Voluntary Quitting of Work

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the September 24, 2021 (reference 02) unemployment insurance decision that denied unemployment insurance benefits to the claimant based upon a voluntary quitting of work. The parties were properly notified of the hearing. A telephone hearing was held on November 23, 2021. The claimant participated personally. The employer participated through witness Curt Jackson. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Did the claimant voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time as a stocker. Her normal working hours were Monday through Friday from 4:00 a.m. to 1:00 p.m. In January of 2021, claimant changed her availability to work for the employer only on Saturday and Sundays. She was instructed by Mr. Jackson that those hours would take effect on February 14, 2021 but that she was scheduled to work her regular shifts up until that point. Claimant was changing her availability due to her being offered employment with another employer. Claimant initially attempted to voluntarily quit her position but decided to change her availability instead.

Claimant was scheduled to work on January 25, 26, 27 and 28, 2021 for her regular hours. She did not come to work or notify anyone that she would not be able to work. Claimant was suffering from COVID-19 like symptoms and was unable to work those four days; however, she did not contact the employer through its call in hotline or online to notify it she would be unable to work. Claimant submitted a claim for COVID-19 related medical leave through the employer's third party provider; however, the leave was not approved. The employer believed that the claimant had voluntarily quit her position because she was a no call no show for three consecutive workdays, in violation of the employer's written policy. Claimant had access to the employer's absenteeism and no call no show policy.

The claimant is currently recovering from surgery. The issue of whether the claimant has been able to and available for work is remanded to the Benefits Bureau for an initial investigation and determination.

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 failing to contact the employer for three consecutive workdays in violation of the employer's written policy. 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).

Iowa Admin. Code r. 871-24.25(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 section 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 section 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.

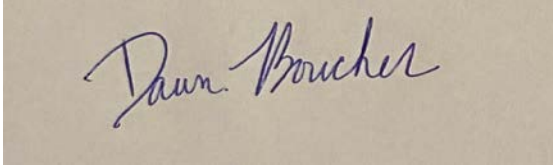
Claimant voluntarily quit her employment with the employer by failing to provide the employer notification of her absences for more than three days in violation of the employer's written policy. Claimant's voluntary quitting was without good cause attributable to the employer. Regular unemployment insurance benefits funded by the State of Iowa are denied as the separation from employment is disqualifying.

DECISION:

The September 24, 2021 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit her employment without good cause attributable to the employer and the separation from employment is disqualifying. Benefits are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after the January 29, 2021 separation date, and provided she is otherwise eligible.

REMAND:

The issue of whether the claimant has been able to and available for work due to surgery is remanded to the Benefits Bureau for an initial investigation and determination.



Dawn Boucher
Administrative Law Judge

December 3, 2021
Decision Dated and Mailed

db/db