

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**YVETTE C DAVILA**

Claimant

**APPEAL NO. 11A-UI-02524-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 01/23/11**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated February 25, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 28, 2011. The claimant participated. The employer notified the agency in writing that it would not be participating in the hearing. The record consists of the testimony of Yvette Davila.

**ISSUE:**

Whether the claimant voluntarily left for good cause attributable to the employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was a full-time sales associate in the frozen foods department in the store located in Marshalltown, Iowa. The claimant was hired on March 2, 2009. Her last day of work was January 8, 2011. She notified her employer by telephone on January 10, 2011, that she did not want to work for the employer anymore.

The claimant quit her job because she did not like the way she was treated by two of the managers in the store. At some point in time, the supervisor for dairy also became the supervisor for frozen foods. The claimant was a hard worker and she was often asked to help out in grocery or dairy. The claimant did not feel this was fair.

The claimant described one incident where she was working on a "feature," which was a display at the end of an aisle. She was kneeling on the floor. Two managers came over to inspect the display and looked down at the claimant. The claimant did not like this. She felt she was being accused of not working hard. She felt that her manager was "riding her hard." She also had difficulties with a manager named Maynard. He was "red-faced" and was not nice to her. He had a way of hurting her feelings.

The claimant was never reprimanded for her lack of effort by her employer.

### **REASONING AND CONCLUSIONS OF LAW:**

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.

871 IAC 24.25(21) and (22) provide:

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:

(21) The claimant left because of dissatisfaction with the work environment.

(22) The claimant left because of a personality conflict with the supervisor.

A quit is a separation initiated by the employee. 871 IAC 24.1(113)(b). 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.

The evidence is uncontroverted that it was the claimant who initiated the separation of employment. She informed her employer on January 10, 2011, that she no longer wanted to work for the employer. The issue, therefore, is whether there was good cause attributable to the employer for the claimant's voluntary quit.

The claimant was dissatisfied with management. She testified that when the frozen food and dairy departments were combined, she got a new supervisor. The claimant felt that this new supervisor "rode her hard." The claimant was asked to help out in the dairy department and the grocery department by this new supervisor. The claimant did not feel this was fair, because other employees were never asked to help her. As a general rule, the employer has the right to designate the work to be performed by an employee. It is not at all unusual to ask an employee to help out in another department. Although the claimant perceived this as unfair, there is no evidence that her own work suffered or that she was criticized for failing to get her own work accomplished.

The claimant also did not like the way some managers operated. She resented being asked where she was because she felt this was an implicit criticism of her work ethic. She stated that Maynard was not nice to her and that he had a way of hurting her feelings. Supervisors may not

always treat employees in the optimal manner or in the way that a particular employee appreciates. The claimant obviously did not like Maynard and the other supervisor, but her complaints are not atypical of those voiced by employees about management. The claimant had the burden of proof to show a detrimental and hostile workplace. This burden she has not sustained. Dissatisfaction with the work environment or a personality conflict with a supervisor is not good cause attributable to the employer.

The administrative law judge concludes that the claimant voluntarily chose to quit her job because she was dissatisfied with the work environment. While the claimant's reasons may have been personally compelling, she has not established good cause attributable to the employer. Benefits are denied.

**DECISION:**

The decision of the representative dated February 25, 2011, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw