

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

CAROLYN A RAMSDELL
2548 AVE C
COUNCIL BLUFFS IA 51501

WAL-MART STORES INC
c/o TALX UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-11262-RT
OC: 10/09/05 R: 01
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5-1 – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant, Carolyn A. Ramsdell, filed a timely appeal from an unemployment insurance decision dated October 27, 2005, reference 01, denying unemployment insurance benefits to her. After due notice was issued, a telephone hearing was held on November 17, 2005, with the claimant not participating. The claimant did not call in a telephone number, either before the hearing or during the hearing, where she or any of her witnesses could be reached for the hearing, as instructed in the notice of appeal. Amber Swanson, Bakery Manager, participated in the hearing for the employer, Wal-Mart Stores, Inc. Theresa Taylor, Team Leader, and Danielle Deruiter, Meat Manager, were available to testify for the employer, but not called because their testimony would have been repetitive and unnecessary and their written statements were admitted into evidence. Employer's Exhibits One through Four were admitted

into evidence. The administrative law judge takes official notice of Iowa Workforce Development Department unemployment insurance records for the claimant.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, including Employer's Exhibits One through Four, the administrative law judge finds: The claimant was employed by the employer as a full-time cake decorator from July 11, 2001 until she voluntarily quit on October 7, 2005. On that day, after given a written coaching for improvement, the claimant went to the bakery section and informed Danielle Deruiter "I quit." The claimant then left the premises. The statement of Ms. Deruiter appears at Employer's Exhibit Two. The coaching for improvement appears at Employer's Exhibit One. On September 28, 2005, the employer's witness, Amber Swanson, Bakery Manager, posted a memo to all bakery associates, including the claimant, and had each associate, including the claimant, sign or initial the notice. Among other things, the specifically stated that all pallets will start being down stacked on truck days and that all people on work that day will be held accountable. The claimant signed her name on this notice on September 28, 2005. The notice appears at Employer's Exhibit Three. However, on October 6, 2005, the claimant failed to down stack pallets even though she was instructed to do so first by the notice noted above and by a specific notice to all bakery associates as shown at Employer's Exhibit Four. The claimant indicated that she had performed the specific tasks assigned to her but that she did not indicate that she had down stacked the pallets. For this the claimant was given the coaching for improvement the next day, October 7, 2005, which triggered the claimant's quit. The claimant had expressed only minor complaints about things she was required to do for Ms Swanson but she never indicated or announced an intention to quit to Ms. Swanson if any of her concerns were not addressed by the employer. The claimant also did not indicate or announce an intention to quit to anyone else at the employer that Ms. Swanson heard about. Work remained available for the claimant had she not quit.

REASONING AND CONCLUSIONS OF LAW:

The question presented by this appeal is whether the claimant's separation from employment was a disqualifying event. It was.

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), (27), (28) 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:

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

(27) The claimant left rather than perform the assigned work as instructed.

(28) The claimant left after being reprimanded.

The employer's witness, Amber Swanson, Bakery Manager, credibly testified, and the administrative law judge concludes, that the claimant voluntarily left her employment on October 7, 2005. The issue then becomes whether the claimant left her employment without good cause attributable to the employer. The administrative law judge concludes that the claimant has the burden to prove that she has left her employment with the employer herein with good cause attributable to the employer. See Iowa Code section 96.6-2. The administrative law judge concludes that the claimant has failed to meet her burden of proof to demonstrate by a preponderance of the evidence that she left her employment with the employer herein with good cause attributable to the employer. The claimant did not participate in the hearing and provide sufficient evidence of reasons attributable to the employer for her quit. Ms. Swanson credibly testified that the claimant quit after being given a coaching for improvement, which is a written reprimand as shown at Employer's Exhibit One. On two different occasions the claimant was specifically instructed to down stack pallets as shown by notices either initialed or signed by the claimant as shown at Employer's Exhibits Three and Four. Leaving work voluntarily because of dissatisfaction with the work environment or rather than performing assigned work as instructed or after being reprimanded are not good cause attributable to the employer. There is not a preponderance of the evidence that the claimant's working conditions were unsafe, unlawful, intolerable or detrimental or that she was subjected to a substantial change in her contract of hire. Although the claimant did express some minor concerns about things she was required to do, the claimant never indicated or announced an intention to quit over any problems and therefore, did not give the employer any reasonable opportunity to address any substantial concerns the claimant may have had. Accordingly, the administrative law judge concludes that the claimant left her employment voluntarily without good cause attributable to the employer and, as a consequence, she is disqualified to receive unemployment insurance benefits. Unemployment insurance benefits are denied to the claimant until or unless she requalifies for such benefits.

DECISION:

The representative's decision of October 27, 2005, reference 01, is affirmed. The claimant, Carolyn A. Ramsdell, is not entitled to receive unemployment insurance benefits, until or unless she requalifies for such benefits, because she left her employment voluntarily without good cause attributable to the employer.

dj/kjw