

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JESSICA P GENCK
Claimant

WALMART INC
Employer

APPEAL NO. 21A-UI-18761-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/20/21
Claimant: Appellant (1)

Iowa Code Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

The claimant, Jessica Genck, filed a timely appeal from the August 17, 2021, reference 02, decision that disqualified the claimant for benefits, based on the deputy's conclusion the claimant voluntarily quit on April 8, 2020 without good cause attributable to the employer. After due notice was issued, a hearing was held on October 14, 2021. Claimant participated. The employer did not provide a telephone number for the appeal hearing and did not participate. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: The August 10, 2020, reference 01, decision, the administrative law judge decision in Appeal Number 20A-UI-09772-AW-T, the Employment Appeal Board decision in Hearing Number 20B-UI-09772, the August 18, 2020 first application for PUA benefits, the September 1, 2020 Assessment for PUA Benefits that denied PUA benefits, the Claim Detail regarding the September 1, 2020 PUA denial, the January 20, 2021 Claim Detail regarding approval of weekly PUA benefits in the amount of \$459.00 for the period beginning April 26, 2020 and potentially through June 12, 2021, and the KPY1 UIB Payment Detail reflecting \$17,381.00 in PUA benefits paid to the claimant.

ISSUE:

Whether the claimant voluntary 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: The claimant, Jessica Genck, was employed by Walmart, Inc. as a full-time unloader at the employer's distribution center in Mount Pleasant. The claimant began the employment in 2018 and last performed work for the employer on April 6, 2020. At the time the claimant last performed work for the employer, her established work hours were 5:15 a.m. to 3:15 p.m., Tuesday through Friday. Two unloading supervisors, Tony and Jim (last names unknown), were the claimant's supervisors. The claimant's work involved unloading semi-trailers. The claimant also assisted with training coworkers.

After the claimant worked on April 6, 2020, she commenced an approved leave of absence. The claimant's decision to go off work in April 2020 occurred in connection with the claimant's

decision to remove her school-age children from in-person classes. The claimant advises that one of her children has a blood condition and is followed by a geneticist and a hematologist. The claimant was concerned about the possibility of her children being exposed to COVID-19. The claimant signed a document requesting the leave of absence. At the time the claimant commenced the leave of absence, there was no agreement between the claimant and the employer regarding when the claimant would return to the employment. Instead, the claimant made contact with the employer every week or two to affirm her continued need to remain off work. During the week of April 11, 2020, the claimant took a note from the hematologist to the Walmart human resources representative. In the note, the provider recommended that the child in question avoid exposure to COVID-19 and not go to school.

At some point subsequent to June 6, 2021, the claimant received a call from the financial institution that handles the claimant's 401k retirement associated with the employment. The financial institution representative referenced that the Walmart had terminated. The claimant had most recently spoken with the Walmart human resources representative two weeks earlier, at which time, the employer had said nothing about the claimant's employment terminating.

After the claimant received the call from the financial institution, the claimant called the workplace and spoke with a Walmart representative. That person told the claimant the employment had terminated because the claimant had not returned to the employment. The claimant did not ask the employer to reinstate her to her job. Instead, the claimant began a new employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1)(c) 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. But the individual shall not be disqualified if the department finds that:

c. The individual left employment for the necessary and sole purpose of taking care of a member of the individual's immediate family who was then injured or ill, and if after said member of the family sufficiently recovered, the individual immediately returned to and offered the individual's services to the individual's employer, provided, however, that during such period the individual did not accept any other employment.

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 in the record establishes a voluntary quit without good cause attributable to the employer. The evidence establishes that the claimant voluntarily left the employment in April 2020 for an indefinite period to care for her child who could not attend school due to a health condition. In other words, the claimant went off work to care for a sick family member. After more than year the claimant had not returned to the employment. Rather than requesting

reinstatement to the employment, the claimant commenced new employment. The evidence establishes a voluntary quit without good cause attributable to the employer. The quit was effective on or about April 8, 2020. The voluntarily quit was without good cause attributable to the employer. Accordingly, the claimant is disqualified for regular benefits until she has worked in and been paid wages for insured work equal to 10 times her weekly benefit amount. The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

DECISION:

The August 17, 2021, reference 02, decision is affirmed. The claimant voluntarily quit the employment 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 10 times her weekly benefit amount.

The claimant must meet all other eligibility requirements. The employer's account shall not be charged.

Nothing in this decision disturbs the administrative law judge decision in Appeal Number 20A-UI-00400-AD-T regarding PUA benefits.



James E. Timberland
Administrative Law Judge

November 23, 2021
Decision Dated and Mailed

jet/scn