

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DIANA L BOWMAN**

Claimant

**APPEAL NO. 12A-UI-01110-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WAL-MART STORES INC**

Employer

**OC: 12/04/11**

**Claimant: Appellant (2)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated January 5, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on February 17, 2012. Claimant participated. Employer participated by Theresa Ohnesorge, Assistant Manager. Exhibit A was admitted into evidence.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue is whether the appeal is timely.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 8, 2011. Claimant quit because she was working customer service and not being paid for it. Claimant was to receive the pay rate for the job performed. Claimant worked customer service for a year but was never paid the differential. Claimant made numerous complaints to management to no avail.

The decision was sent to claimant January 5, 2011. Claimant received the decision. Claimant wrote her appeal late because she was suffering from an illness and could not comprehend the nature of the problem. Claimant filed her appeal January 26, 2011 which is two days after she discovered the need to appeal. The delay in appealing was caused by illness.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because she was not paid for the work performed. This is a quit for good cause attributable to employer. Benefits allowed.

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 24.26(3) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(3) The claimant left due to unlawful working conditions.

Claimant's appeal is timely as it was filed within two days of actual notice of the adverse decision. The delay was caused by illness.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

**DECISION:**

The decision of the representative dated January 5, 2012, reference 01, is reversed. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Claimant's appeal is timely.

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Marlon Mormann  
Administrative Law Judge

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Decision Dated and Mailed

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