

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAWN M MEYER
Claimant

APPEAL NO. 13A-UI-12052-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 09/22/13
Claimant: Appellant (2)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated October 15, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on November 19, 2013. The claimant participated personally. The employer participated by Matt Linn, store manager. The record consists of the testimony of Dawn Meyer and the testimony of Matt Linn.

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 witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant worked at the employer's store located in Anamosa, Iowa. The claimant started working for the employer in August 2006. On November 13, 2010, she was given the job of department manager for sporting goods and automotive goods. She was a full-time employee. Her last day of work was September 24, 2013. The claimant resigned her position and the employer accepted her resignation.

The claimant quit her job because her hours were changed and she could not work those hours. The claimant's work hours were 7:00 a.m. to 4:00 p.m., on Monday through Friday. The new work hours required her to work one night per week from 11:00 p.m. to 8:00 a.m. She also had to work one full weekend per month. The claimant could not work these hours because she had a second job. She would be required to give up her second job to work the new hours. The loss in income would be approximately \$248.00 per month. The claimant was also taking online classes and she would have to quit taking those classes as well.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.26(1) 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:

(1) A change in the contract of hire. An employer's willful breach of contract of hire shall not be a disqualifiable issue. This would include any change that would jeopardize the worker's safety, health or morals. The change of contract of hire must be substantial in nature and could involve changes in working hours, shifts, remuneration, location of employment, drastic modification in type of work, etc. Minor changes in a worker's routine on the job would not constitute a change of contract of hire.

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 claimant is eligible for unemployment insurance benefits. Although the claimant decided to quit her job, she did so for good cause attributable to the employer. When there is a substantial change to the contract of employment and the claimant must quit as a result of those changes, the claimant is allowed to receive unemployment insurance benefits. The evidence showed that the change in the contract of employment was a significant change for the claimant. She was required to work hours she had not worked in the past and this interfered with her second job. She would be required to quit her second job, which would mean a loss in income for the claimant. Although the employer had good business reasons for requiring this change in hours, the key issue is how the change impacts the employee. In this case, there was a significant negative impact for the claimant. Benefits are therefore allowed, provided the claimant meets all other eligibility requirements.

DECISION:

The decision of the representative dated October 15, 2013, reference 01, is reversed. Unemployment insurance benefits are allowed, if the claimant is otherwise eligible.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs