

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RANDALL L WILKERSON
Claimant

APPEAL NO. 14A-UI-13283-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 11/30/14
Claimant: Respondent (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

The employer filed a timely appeal from a representative's decision dated December 15, 2014, reference 01, which held claimant eligible to receive unemployment insurance benefits finding that he quit work on November 8, 2014 because of a change in the contract under which he was hired. After due notice was provided, a telephone hearing was held on January 22, 2015. Claimant participated. The employer participated by Ms. Youlanda Reeves, Hearing Representative, and Diane Barton, Human Resource Manager.

ISSUE:

The issue is whether the claimant left employment with good cause attributable to the employer.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Randall Wilkerson was employed by Wal-Mart Stores, Inc. from September 17, 1989 until November 8, 2014 when he quit work due to a change in the agreement under which he was hired. Mr. Wilkerson was initially hired as a full-time third shift unloader for Wal-Mart Stores, Inc. Approximately two years after being hired, Mr. Wilkerson changed job positions and began working as a full-time maintenance mechanic on the third shift for Wal-Mart Stores, Inc. The claimant continued to work in his full-time capacity until being informed that due to staffing changes his job would change to working 33 hours per week as a weekend maintenance mechanic.

Although the employer offered Mr. Wilkerson a \$1.35 shift differential if he agreed to the change, Mr. Wilkerson did not agree to the change as it involved a substantial reduction in his working hours and yearly reduction in pay.

It is the employer's position that employees such as Mr. Wilkerson are free to volunteer for other working hours that might be available at the work location and that based upon the claimant's previous job experience, he would be qualified to apply for additional work when it is available.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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.

Iowa Admin. Code r. 871-24.26(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.

The claimant voluntarily quit his employment on November 8, 2014 due to a change in the contract of hire when the employer planned to reduce his working hours from 40 hours per week to 33 hours per week. Mr. Wilkerson had been working 40 hours per week since September 17, 1989 and had previously told the employer that he would quit if his hours were changed. A "change in the contract of hire" means a substantial change in the terms or conditions of employment. See Wiese v. Iowa Department of Job Service, 389 N.W.2d 676, 679 (Iowa 1986). A substantial reduction in hours or pay gives an employee good cause for quitting. See Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). In analyzing such cases the Iowa Courts look at the impact on the claimant rather than the employer's motivation.

The law presumes a claimant has left employment with good cause when he or she quits because of a change in the contract of hire. 871 IAC 24.26(1). Changing the claimant's work schedule after the claimant said he would quit if changed is considered to be a substantial change in the claimant's contract of hire. Dehmel v. Employment Appeal Board, 433 N.W.2d 700 (Iowa 1988). It is the claimant's burden to prove that the voluntary quit was for good cause that would not disqualify him. Iowa Code section 96.6-2. The claimant has satisfied that burden and benefits are allowed.

DECISION:

The representative's decision dated December 15, 2014, reference 01, is affirmed. Claimant left employment with good cause attributable to the employer and the claimant is qualified to receive unemployment insurance benefits, provided that he meets all other eligibility requirements of the law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs