

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VALERIA E GREENLAND
Claimant

APPEAL NO. 12A-UI-02727-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 02/05/12
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Valeria Greenland filed a timely appeal from the March 16, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 3, 2012. Ms. Greenland participated. The employer did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate.

ISSUE:

Whether Ms. Greenland separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Valeria Greenland was employed by Wal-Mart as a part-time deli associate from May 2011 and last performed work for the employer on January 12, 2012. At that time, the employer reprimanded Ms. Greenland for prior absences. The employer placed Ms. Greenland on a paid “decision-making day.” The employer directed Ms. Greenland to return on January 18, 2012 with a statement regarding why she should be allowed to continue in her employment with Wal-Mart. Upon receipt of Ms. Greenland’s statement, the employer was going to make a decision regarding whether she would be allowed to return to the employment. Ms. Greenland did not return on January 18 and did not provide the employer with a statement. Ms. Greenland became temporarily ill. Ms. Greenland did notify the employer that she was ill. Ms. Greenland simply failed to make any further contact with the employer.

Wal-Mart was Ms. Greenland’s sole base period employer.

REASONING AND CONCLUSIONS OF LAW:

The weight of the evidence in the record establishes a voluntary quit. Ms. Greenland voluntarily quit by failing to return to work after the paid decision-making day and by failing to make further contact with Wal-Mart after she worked on January 12, 2012.

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.

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.

When a person quits employment in response to a reprimand, the quit is presumed to be without good cause attributable to the employer. See 871 IAC 24.25(28).

In considering an understanding or belief formed, or a conclusion drawn, by an employer or claimant, the administrative law judge considers what a reasonable person would have concluded under the circumstances. See Aalbers v. Iowa Department of Job Service, 431 N.W.2d 330 (Iowa 1988) and O'Brien v. Employment Appeal Bd., 494 N.W.2d 660 (1993).

The weight of the evidence establishes a voluntary quit for personal reasons and not for good cause attributable to the employer. Taking at face value Ms. Greenland's assertion that she did not return to work on January 18 because she was sick, the administrative law judge concludes that a reasonable person desiring to remain employed would have notified the employer of the illness on January 18 and would have continued to notify the employer of the ongoing absence. Ms. Greenland did not do that. A reasonable person would also have returned to the employer once the temporary illness had passed. Ms. Greenland did not do that. Given Ms. Greenland's failure to return or make further contact with the employer after January 12, a reasonable employer would have concluded under the circumstances that Ms. Greenland had quit in response to the reprimand.

Because Ms. Greenland voluntarily quit the employment without good cause attributable to the employer, she is disqualified for benefits until she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged for benefits paid to Ms. Greenland.

DECISION:

The Agency representative's March 16, 2012, reference 01, 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 ten times her weekly benefit amount, provided she is otherwise eligible. The employer's account shall not be charged.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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