

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE J NORTON

Claimant

APPEAL NO. 12A-UI-05192-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 04-08-12

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 27, 2012, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on May 23, 2012. The claimant did participate. The employer did not participate.

ISSUE:

Did the claimant voluntary quit her employment 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 was employed as a general merchandise stocker, full-time, beginning August 1, 2007, through December 22, 2011, when she voluntarily quit.

The claimant voluntarily quit because she no longer wanted to work nights. She has a son at home for one more year and wanted to be home with him. She was hired to work nights and had always worked nights. The claimant was not told to quit or that she would be discharged. She had not been disciplined or told that she was going to be discharged due to discipline. At hearing, she is now alleging that she was “targeted.” The claimant did not like it that her supervisor would tell her what to do and how to perform her job. She had a personality conflict with her supervisors. Continued work was available for the claimant if he had not quit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer.

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.

871 IAC 24.25(18) and (22) provide:

Voluntary quit without good cause. 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 from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code § 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(18) The claimant left because of a dislike of the shift worked.

. . . .

(22) The claimant left because of a personality conflict with the supervisor.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The Administrative Law Judge is not persuaded that the claimant quit for any other reason than she no longer wanted to work nights. She changed her reason for quitting from the fact-finding interview until the time of the hearing in an attempt to secure benefits. Quitting because an employee does not like the shift or because of a personality conflict with the supervisor is not good cause attributable to the employer for quitting. While claimant's decision to quit may have been based upon good personal reasons, it was not a good-cause reason attributable to the employer for leaving the employment. Benefits must be denied.

DECISION:

The April 27, 2012 (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/kjw