

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOAN M BERGER
Claimant

APPEAL NO. 09A-UI-01344-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

**OC: 01-04-09 R: 01
Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 27, 2009, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on February 16, 2009. The claimant did participate. The employer did participate through Mary Christensen, Assistant Manager.

ISSUE:

Did the claimant voluntarily quit her employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as an overnight stock person, full-time, beginning August 4, 2004, through January 2, 2009, when she voluntarily quit.

On December 9, 2008, the claimant called in absent to work due to weather conditions being icy and her fear that she could not safely drive her 40-mile commute to work. The claimant was not disciplined in any way for her absence. The claimant learned later that her absence was not being considered weather-excused by the employer, but she was not disciplined in any way and her job was not placed in jeopardy by the absence. The claimant chose to quit her employment because the employer was not considering her absence on December 9, 2008 weather-related. Continued work was available for the claimant if she had not quit.

REASONING AND CONCLUSIONS OF LAW:

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

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.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2).

The claimant called in absent to work on December 9. As a result of that absence, she was not disciplined in any way, nor was the absence counted against her attendance record. The claimant voluntarily quit working because she believed the employer should have allowed her absence due to weather on December 9. The claimant suffered no negative consequences as a result of her absence on December 9. The employer in no way disciplined her or punished her attendance record for the absence. Under these circumstances, the administrative law judge cannot conclude that the claimant had a good-cause reason attributable to the employer for her voluntarily quit. Benefits are denied.

DECISION:

The January 27, 2009, 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