

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA K HIRTES
Claimant

APPEAL NO. 10A-UI-13020-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC
Employer

OC: 08/15/10
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated September 10, 2010, reference 01, which denied benefits based upon her separation from Wal-Mart Stores, Inc. After due notice, a telephone hearing was held on November 3, 2010. Claimant participated personally. Although duly notified, the employer did not participate.

ISSUE:

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

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Pamela Hirtes was employed by Wal-Mart Stores, Inc. from June 26, 2004 until August 13, 2010 when she voluntarily left employment in anticipation of being discharged. Ms. Hirtes last worked as a full-time dairy stocker and was paid by the hour.

Ms. Hirtes resigned her position with Wal-Mart Stores, Inc. on August 13, 2010 when she anticipated that she would be discharged from employment for failing to report for work or providing notification to the employer for three consecutive work days on August 9, 10, and 11, 2010. Although the employer had not stated that the claimant would be discharged at the time that Ms. Hirtes chose to leave, Ms. Hirtes anticipated that her discharge would be forthcoming because of attendance violations.

REASONING AND CONCLUSIONS OF LAW:

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 evidence in the record shows that Ms. Hirtes left her employment in anticipation of being discharged for excessive absenteeism and failure to report or provide notification to the employer. While this may be a good cause reason for personally leaving employment, leaving in anticipation of discharge is not a good cause reason attributable to the employer. Unemployment insurance benefits are withheld.

DECISION:

The representative's decision dated September 10, 2010, reference 01, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided that the claimant is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs