

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ALISHAE D. BAYLARK**  
Claimant

**DIA APPEAL NO. 21IWDUI2110  
IWD APPEAL NO. 21A-UI-07541**

**WALMART INC.**  
Employer

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/28/20  
Claimant: Appellant (1)**

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Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 10, 2021 (reference 01) unemployment insurance decision that denied benefits based upon her separation from employment. The parties were properly notified of the hearing. A telephone hearing was held on May 7, 2021. The claimant, Alishae Baylark, participated and presented testimony. Her mother, Kim Baylark, appeared as a witness and also presented testimony. The employer, Walmart Inc., participated through Stocking II Coach Albert Newman. Official Notice was taken of the administrative file, which included the notice of telephone hearing, the transmittal form transmitting this case to DIA, the decision at issue herein, the appeal request, and Claimant's written notice of potential witness testimony.

**ISSUES:**

Did claimant voluntarily quit the employment with good cause attributable to employer?  
Was the claimant discharged for disqualifying job-related misconduct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds Claimant began working for Walmart, Inc. on October 10, 2008. Claimant worked as an automotive department manager and her immediate supervisor was Stocking Coach, II, Albert Newman.

Commencing June 17, 2020, Claimant had been off work for family medical leave (FMLA) as she was taking care of her mother who had several serious health problems, including receiving two blood transfusions, a hysterectomy, and rheumatoid arthritis. Claimant had three consecutive leaves, the last of which was to end on October 4, 2020. Claimant requested that leave in September of 2020. Claimant was supposed to provide documentation by September 24, 2020 but did not do so. This deadline was extended to October 1, 2020. She did not provide documentation by that date, and her leave request was denied on October 2, 2020. A notification was sent out by Sedgwick, the employer's leave company, informing her of the denial.

Albert Newman stated that even though the leave was denied, Baylark had not yet returned to work and she was still listed as inactive, therefore her absences did not count against her. Claimant would have been notified by Sedgwick to return at the next scheduled date, however as she was inactive, that date had not been set.

Newman stated Baylark turned in her badge to the personnel coordinator, Tammy Strunk, on October 12, 2020. At that point she had no unexcused absences and was not in danger of being fired. She was still on an inactive schedule and her work hours weren't scheduled yet. Strunk notified Newman by email that Baylark had turned in her badge. Newman opined that Strunk believed Baylark did this because Baylark believed she had unexcused absences.

Claimant stated Strunk called her after her leave was denied and told her she had to come back to work. At some point after receiving her denial letter, Claimant was at Walmart shopping when Assistant Manager Marquise Johnson told her she was supposed to be at work and she needed to talk to Strunk because her absences were counting against her. Claimant stated this was why she turned in her badge. Claimant had received the letter a few weeks earlier denying her request for family medical leave. The letter stated she had to go back to work on a certain day, but she got the letter late. She stated she was already missing days at that point because she could not come back to work as she still needed to care for her mother.

Claimant stated she went in to speak with Tammy Strunk and turned in her badge. Claimant stated she did this because she knew she had already missed more than three days and was a no-call no-show for those days. She knew she would be let go anyway so she quit, turning in her badge. Strunk told her at that meeting that Claimant was supposed to return on a specific date and she had already missed those dates. Claimant had believed, until Strunk told her she missed work days, that she was inactive and didn't have a schedule, but Strunk was telling her she did have a schedule. Strunk did not tell her she missed more than three days and did not tell her she was fired. Claimant was going off what her regular schedule would have been prior to her leave. Claimant stated that Strunk told her that because she was quitting, Strunk would not have to send out her termination letter.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

The issue in this case is whether Claimant voluntarily quit her employment or was discharged for disqualifying reasons on October 12, 2020.

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. 871-24.25(20) provides:

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 section 96.5. However, the claimant has the initial burden to produce evidence

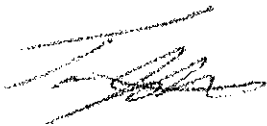
that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10.

A voluntary quitting requires an intention to terminate the employment and requires an overt act of carrying out that intention. *Wills v. Emp. Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989); *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Where a claimant walked off the job without permission before the end of his shift saying he wanted a meeting with management the next day, the Iowa Court of Appeals ruled this was not a voluntary quit because the claimant's expressed desire to meet with management was evidence that he wished to maintain the employment relationship. *Peck v. Emp. Appeal Bd.*, 492 N.W.2d 438, 440 (Iowa Ct. App. 1992).

Claimant clearly and voluntarily quit her employment in this case. While the undersigned recognizes that she had believed that she had exceeded the number of absences allowed by the employer and that she would be terminated, Complainant made clear at hearing that she did in fact quit her job. It is clear from the testimony received that no one terminated her. Claimant stated further that she did not return to work after receiving the denial letter because she needed to care for her mother. The undersigned appreciates the difficult position Claimant was in due to her mother's ill health, but the record is clear that Claimant quit her employment voluntarily for reasons not attributable to her employer.

**DECISION:**

The March 10, 2021 (reference 01) unemployment insurance decision is affirmed.



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Tricia A. Johnston  
Administrative Law Judge

May 13, 2021  
Decision Dated and Mailed

TAJ/  
CC: Alishae Baylark (by First Class Mail)  
Walmart Inc. (by First Class Mail)  
Nicole Merrill, IWD (By Email)  
Joni Benson, IWD (By Email)