

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANGEL M NEAL
Claimant

APPEAL NO. 11A-UI-06012-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**CASEY'S MARKETING COMPANY
CASEY'S GENERAL STORES**
Employer

**OC: 04/10/11
Claimant: Appellant (1)**

Iowa Code Section 96.5(1) – Voluntary Quit
871 IAC 24.27 – Voluntary Quit of Part-time Employment

STATEMENT OF THE CASE:

Angel Neal filed a timely appeal from the May 3, 2011, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 2, 2011. Ms. Neal participated. Terrie Kono, Store Manager, represented the employer.

ISSUE:

Whether Ms. Neal's voluntary quit was for good cause attributable to the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Angel Neal was employed on a part-time basis at the Casey's in Colfax from 2009 until March 3, 2011, when she voluntarily quit in response to receiving a written reprimand. For at least the last six months of the employment, Ms. Neal was the Second Assistant Manager. Throughout the employment, Store Manager Terrie Kono was Ms. Neal's immediate supervisor. On or about March 3, 2011, Ms. Kono received a customer complaint regarding a personal phone call Ms. Neal had taken on her cell phone while she was supposed to be waiting on customers at the cash register. There were two customers waiting to be served at the register. One customer had a small child with them. The complaining customer told Ms. Kono that Ms. Neal had answered her phone, had raised her voice and used profanity in front of the small child in connection with the personal call, and that Ms. Neal had then walked away from the register to continue call, leaving the customers still waiting at the register. Ms. Kono reviewed video surveillance that confirmed the customer's complaint.

Before Ms. Kono left for the day on March 3, 2011, she prepared a written reprimand for Ms. Neal to sign when she arrived for her 3:00 p.m. shift. The reprimand directed Ms. Neal to leave her cell phone at home. The reprimand indicated that Ms. Neal would be temporarily relieved of cash register duties and assigned to work in the pizza making area. Making pizzas had been part of Ms. Neal's duties. Ms. Kono had previously counseled Ms. Neal about being rude in front of customers at the register. Ms. Kono's decision to have Ms. Neal make pizzas

instead of running the register would not involve any change in pay, any change in work hours, or any change in status. When Ms. Neal read the written reprimand, she tore it up and threw it away. Ms. Neal told the clerk on duty to call Ms. Kono to come into work because Ms. Neal was quitting. Ms. Neal then left at the scheduled start of her shift and did not make further contact with the employer.

Ms. Neal was generally dissatisfied with the employment well before the day she walked out in response to the reprimand. Ms. Neal believed she deserved a greater wage. Ms. Neal had received a wage increase when she became Second Assistant, but did not think it was as much as it should have been. Ms. Neal believed she was due another pay increase due to the length of her employment. Neither Ms. Kono nor anyone else had promised Ms. Neal more money. Issues related to performance reviews and associated pay increases were not within the scope of Ms. Kono's authority and had to be handled by the area supervisor.

Ms. Neal did not have other employment while she worked for Casey's and has last worked for another employer, McDonald's, during the summer of 2009. Ms. Neal established a claim for unemployment insurance benefits that was effective April 10, 2011. Ms. Neal's base period for purposes of that claim are the four calendar quarters in 2010, during which she only worked for Casey's.

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.

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

The weight of the evidence establishes that Ms. Neal voluntarily quit in response to receiving a written reprimand for inappropriate conduct. The employer was reasonable in issuing the reprimand. Any concern Ms. Neal had about her pay was a distant secondary consideration at the time she quit. The evidence fails to establish that Ms. Neal had been denied appropriate pay. The evidence establishes that Ms. Neal had been at the same wage for several months. The evidence fails to establish any significant change in the conditions of the employment that would have prompted a reasonable person to leave the employment. Ms. Neal's voluntarily quit was without good cause attributable to the employer. Accordingly, Ms. Neal 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. Neal.

An individual who voluntarily quits part-time employment without good cause attributable to the employer and who has not re-qualified for benefits by earning ten times her weekly benefit amount in wages for insured employment, but who nonetheless has sufficient other wage credits to be eligible for benefits may receive reduced benefits based on the other base period wages. See 871 IAC 24.27. Because Ms. Neal's sole base period employer was Casey's, there are no other base period wages upon which reduced benefits might be based.

DECISION:

The Agency representative's May 3, 2011, 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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