

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELE S ROSES
Claimant

APPEAL NO. 12A-UI-14689-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 10/28/12
Claimant: Appellant (4)**

Section 96.5-1 – Voluntary Quit
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated December 5, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on January 15, 2013. Claimant participated. Employer participated by Teresa Zuke, Area Supervisor. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 2, 2012. Claimant went off work due to a non-work-related health issue. Claimant remains off work due to the health condition through date of hearing. Claimant overextended her FMLA. Employer terminated the employment relationship while claimant was off work and under medical care effective December 6, 2012.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when employer terminated the employment relationship because claimant was off work due to illness. This is a separation for cause attributable to employer. Benefits allowed.

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 second issue is whether claimant is able and available for work. Claimant has not established the ability to work full time because she is still recovering. Benefits shall be withheld until claimant is fully released by her doctor.

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

DECISION:

The decision of the representative dated December 5, 2012, reference 01, is modified in favor of claimant. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Benefits shall be withheld effective October 28, 2012 until such time as claimant obtains a full release to return to work and presents such to workforce development.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs