

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEVEN R BOGART
Claimant

APPEAL NO. 14A-UI-03821-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 03/16/14
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 2, 2014, (reference 01) unemployment insurance decision that denied benefits. After due notice was issued, a hearing was held on April 29, 2014 in front of administrative law judge Vicki Seeck by telephone conference call. Administrative law judge Teresa K. Hillary listened to the complete recording of the hearing on May 19, 2014 and issued the following decision. The claimant did participate. The employer did through Gabrielle Reidner, Store Manager.

ISSUE:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed part time as a cook beginning on March 12, 2012 through March 14, 2014 when he voluntarily quit. The claimant was working on March 14 when the electricity began flickering leading to the claimant becoming very frustrated. He never told his coworkers or anyone else that he was ill and unable to work. He left due to being frustrated with the electricity situation, not due to illness. The claimant simply told his coworkers he was "done" and left. The claimant did not follow the chain of command in reporting his desire to leave work. The claimant knew that his coworkers did not have authority to give him permission to leave work. The claimant had a history of acting in a similar manner. The names and telephone numbers of management officials were listed in the office and the claimant could have called someone other than Whitney, but chose not to do so.

REASONING AND CONCLUSIONS OF LAW:

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

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(21) and (27) provide:

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 § 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 § 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

(27) The claimant left rather than perform the assigned work as instructed.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

The claimant in the past had demonstrated an ability to properly report his absences. The claimant did not follow the well-known and established chain of command. The claimant told his coworkers he was leaving because he was frustrated by the electricity flickering. The claimant has not established an intolerable or hostile work environment due to a temporary lapse in electric to the building. While claimant's decision to quit may have been based upon good personal reasons it was not a good-cause reason attributable to the employer for leaving the employment. Benefits are denied.

DECISION:

The April 2, 2014, (reference 01) decision is affirmed. The claimant voluntarily left his employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. Inasmuch as no benefits were claimed or paid, no overpayment applies.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css