

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

VICTORIA SOREL

Claimant

APPEAL NO: 14A-UI-06216-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEYS MARKETING COMPANY

Employer

OC: 05/11/14

Claimant: Respondent (1)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

The employer filed a timely appeal from the June 4, 2014, reference 01, decision that allowed benefits to the claimant. After due notice was issued, a telephone hearing was held before Administrative Law Judge Julie Elder on July 9, 2014. The claimant participated in the hearing. Ron Niermeyer, Area Supervisor, and Lori Ceselski, Employer Representative, participated in the hearing on behalf of the employer. Claimant's Exhibit A was admitted into evidence.

ISSUE:

The issue is whether the claimant voluntarily left her employment with 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 as a full-time first assistant manager for Casey's from May 4, 2012 to May 14, 2014. She resigned her position because the working conditions caused her to experience panic attacks and her healthcare provider advised her to leave her job.

On May 8, 2014 the employer discharged the general manager. It usually maintains a general manager, first assistant manager, and assistant manager. After the general manager was terminated the claimant was the only management employee remaining and was expected to take over the duties of the general manager and run the store. One of those duties entailed covering every shift employees called off on or did not show up to work. She also had to open every day at 3:30 a.m. because a manager must open the store. Previously, she had an arrangement with the general manager where she only opened on weekends and the general manager opened during the week. She had to be available to answer any questions during the time the store was open, from 5:00 a.m. to 11:00 p.m., even if she was off work. The store was also losing other staff members and effective May 16, 2014 would have only had four employees, including the claimant, and she would have been expected to cover all of those vacant shifts. The claimant and previous general manager had been trying to hire more employees but were not getting any applications for the positions.

When Area Supervisor Ron Niermeyer notified the claimant May 8, 2014 the general manager had been discharged, the claimant told him immediately she could not run the store by herself without the help of another manager. Mr. Niermeyer told her there was a possibility another manager might come in from another store but stated he did not know when or if that would occur. The claimant stated she would try but would need a day off as she had worked several days in a row and he told her she could leave at 7:00 a.m. or 8:00 a.m. Sunday, May 11, 2014.

On May 10, 2014 the claimant experienced "massive chest pains." She called Mr. Niermeyer and told him she needed to go to the emergency room before proceeding to drive herself to the hospital. She was diagnosed with high blood pressure and a severe panic attack. She was given medication for anxiety and hospitalized for one week due to the stress she was experiencing. While she was in the hospital her doctor told her she could not return to her job with the employer. Additionally, after leaving the hospital the claimant sought therapy and her therapist advised it would "be unhealthy for her to return to work because of the dynamics of the work environment", (Claimant's Exhibit A). On May 14, 2014 the claimant notified Mr. Niermeyer by letter that she was leaving her employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left her employment with 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.

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. 871 IAC 24.25. Leaving because of dissatisfaction with the work environment is not good cause. 871 IAC 24.25(1). Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3),(4). The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code section 96.6-2.

Where illness or disease directly connected to the employment make it impossible for an individual to continue in employment because of serious danger to health. Termination of employment for that reason is involuntary and for good cause attributable to the employer even if the employer is free from all negligence or wrongdoing. Raffety v. IESC, 76 N.W.2d 787 (Iowa 1956). A voluntary quit based on illness is clearly disqualifying except upon the advice of a licensed and practicing physician. Taylor v. IDJS, 362 N.W.2d 534 (Iowa 1985). In this case, the claimant experienced debilitating stress after the general manager was discharged and the claimant was effectively left to run the store by herself. Her stress manifested itself in a severe panic attack and a dangerous rise in the claimant's blood pressure and medical personnel found it troubling enough that the claimant was hospitalized for one week and told her not to return to her job at Casey's. There is no definitive method of determining how much responsibility the employer has in the claimant's health condition. In this case, however, the claimant's illness greatly intensified when she was left to run the store by herself and her resulting panic attack and hospitalization can be traced to the recent change in her work situation. The claimant was instructed to leave her position by a licensed and practicing physician. The doctor's directive

was seconded by the claimant's therapist. Under these circumstances, the administrative law judge concludes the claimant has demonstrated that her voluntary leaving of her employment was for good cause attributable to the employer. Therefore, benefits are allowed.

DECISION:

The June 4, 2014, reference 01, decision is affirmed. The claimant voluntarily left her employment with good cause attributable to the employer. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

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