

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CINDY K WILSON
Claimant

APPEAL NO: 12A-UI-05030-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

OC: 03/11/12
Claimant: Appellant (1/R)

Section 96.5-1 – Voluntary Leaving

STATEMENT OF THE CASE:

Cindy K. Wilson (claimant) appealed a representative's April 25, 2012 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits after a separation from employment with Casey's Marketing Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 23, 2012. The claimant participated in the hearing. Roy Dimmitt appeared on the employer's behalf. Based on the evidence, the arguments of the parties, a review of the law, and assessing the credibility of the witnesses and reliability of the evidence in conjunction with the applicable burden of proof, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant voluntarily quit for a good cause attributable to the employer?

OUTCOME:

Affirmed. Benefits denied.

FINDINGS OF FACT:

The claimant started working for the employer on October 10, 2011. She worked part time (20-30 hours per week as a general employee at the employer's Sioux City, Iowa store. Her last day of work was April 6, 2012.

On April 3 the claimant reported to the store manager, Dimmitt, that a coworker had failed to perform her job duties properly. On April 4 that coworker confronted the claimant; during that confrontation, the claimant pushed past the coworker. The coworker complained to Dimmitt. He watched the video surveillance and confirmed that the claimant had unnecessarily pushed past the coworker. He gave the coworker a write up for her involvement in the situation, and on April 6 he informed the claimant that he was giving her a write up for her involvement in the matter.

The claimant told Dimmitt that she was not going to sign anything because she had done nothing wrong. Dimmitt responded that the write up would go in her file whether she signed it or not, but that if she refused to sign, he needed to call the corporate human resources office, and proceeded to do so. While he was on the phone, the claimant asked if she should go ahead and go home, but Dimmitt told her she was to stay. A few minutes later the claimant returned to Dimmitt's office and said she was too upset, that she was going home. He told her that if she left, she would be considered to have quit. The claimant responded that she did not care, and left.

The claimant had established an unemployment insurance benefit year effective March 11, 2012. She filed weekly claims for the three weeks starting at that time through the week ending March 31, 2012, seeking partial unemployment insurance benefits in light of a prior separation from a different employer.

REASONING AND CONCLUSIONS OF LAW:

If the claimant voluntarily quit her employment, she is not eligible for unemployment insurance benefits unless it was for good cause attributable to the employer. Iowa Code § 96.5-1. Rule 871 IAC 24.25 provides that, 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. A voluntary leaving of employment requires an intention to terminate the employment relationship and an action to carry out that intent. *Bartelt v. Employment Appeal Board*, 494 N.W.2d 684 (Iowa 1993); *Wills v. Employment Appeal Board*, 447 N.W.2d 137, 138 (Iowa 1989). Leaving rather than staying and performing one's job as directed is quitting. 871 IAC 24.25(27). The claimant did express or exhibit the intent to cease working for the employer and did act to carry it out. The claimant would be disqualified for unemployment insurance benefits unless she voluntarily quit for good cause.

The claimant has the burden of proving that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. Leaving because of unlawful, intolerable, or detrimental working conditions would be good cause. 871 IAC 24.26(3), (4). Leaving because of a dissatisfaction with the work environment or a personality conflict with a coworker or supervisor is not good cause. 871 IAC 24.25(6), (21), (22). Quitting because a reprimand has been given is not good cause. 871 IAC 24.25(28). The claimant has not provided sufficient evidence to conclude that a reasonable person would find the employer's work environment detrimental or intolerable. *O'Brien v. Employment Appeal Board*, 494 N.W.2d 660 (Iowa 1993); *Uniweld Products v. Industrial Relations Commission*, 277 So.2d 827 (FL App. 1973). Rather, her complaints do not surpass the ordinary tribulations of the workplace. The claimant has not satisfied her burden. Benefits are denied as of April 6, 2012.

An issue as to whether the claimant was eligible for partial unemployment insurance benefits for the three weeks prior to the separation arose during the hearing. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The representative's April 25, 2012 decision (reference 01) is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. As of April 6, 2012, benefits are withheld until such time as the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the partial unemployment insurance benefit eligibility issue for the weeks prior to the separation.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs