

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SIEMENS, VANESSA, S
Claimant

APPEAL NO. 11A-UI-00317-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

**OC: 10/31/10
Claimant: Respondent (4-R)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the December 30, 2010, reference 01, decision that allowed benefits. After due notice was issued, a hearing was held on February 14, 2011. Claimant did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Michelle Degrado represented the employer. Exhibits One, Two, and Three were received into evidence.

ISSUE:

Whether the claimant separated from the employment for a reason that disqualifies her for unemployment insurance benefits.

Whether the employer's account may be assessed for benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Vanessa Siemens was employed by Casey's as a part-time employee at the employer's State Center store from May 2010 until November 4, 2010, when she voluntarily quit in the middle of her shift rather than perform the work as assigned. Ms. Siemens' immediate supervisor was Store Manager Michelle Degrado. While Ms. Siemens generally worked as a pizza maker, she was sometimes assigned to other duties. On Thursday, November 4, 2010, Ms. Siemens was assigned to assist the pizza maker and primary cashier/clerk. On Thursdays, the employer receives freight from various vendors. The third employee on duty, which was Ms. Siemens that day, shared responsibility for making certain that freight was properly put away. This included moving cases of pop to the cooler. Ms. Siemens did not wish to perform the cooler stocking duties and called Ms. Degrado to protest the assignment. Ms. Degrado affirmed that Ms. Siemens needed to perform the duties as assigned. When Ms. Siemens got off the phone with Ms. Degrado, she notified the cashier that she was leaving and would not be back. There was no further contact between the parties.

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 worker voluntarily quits rather than perform assigned work as instructed, the worker is presumed to have voluntarily quit without good cause attributable to the employer. See 871 IAC 24.25(27).

The claimant failed to participate in the hearing and thereby failed to present any evidence to establish a quit for good cause attributable to the employer. The weight of the evidence establishes that Ms. Siemens elected to voluntarily quit rather than perform the duties that came with the third employee position on November 4, 2010. The weight of the evidence indicates that the employer reasonably expected Ms. Siemens to perform the assigned duties. The evidence fails to establish any significant change in the conditions of the employment or any intolerable or detrimental working conditions. See 871 IAC 24.26(1) and (4).

Ms. Siemens voluntarily quit the part-time employment without good cause attributable to the employer. Accordingly, Ms. Siemens is disqualified for benefits based on base period wage credits earned through the Casey's employment 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. Casey's account shall not be charged for benefits paid to Ms. Siemens.

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 the Casey's employment was part-time, Ms. Siemens remains otherwise eligible for benefits based on base period employment other than that with Casey's, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division for determination of Ms. Siemens' eligibility for reduced benefits based on base period employment other than Casey's.

DECISION:

The Agency representatives December 30, 2010, reference 01, decision is modified as follows. The claimant voluntarily quit the part-time employment without good cause attributable to the employer. The claimant is disqualified for benefits *based on base period wage credits earned through the Casey's employment* 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. Casey's account shall not be charged. The claimant remains otherwise eligible for benefits based on base period employment *other than* that with Casey's, provided she meets all other eligibility requirements. This matter will be remanded to the Claims Division for determination of the claimant's eligibility for reduced benefits based on base period employment *other than* Casey's.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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