

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEAN BURR**  
Claimant

**APPEAL NO: 06A-UI-10014-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING CO**  
Employer

**OC: 08/27/06 R: 03**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Jean Burr (claimant) appealed an unemployment insurance decision dated October 3, 2006, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Casey's Marketing Company (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 30, 2006. The claimant participated in the hearing. The employer participated through Connie Smith, Supervisor and Cheryl Wheeler, Manager. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was employed as a part-time cook from February 11, 2002 through August 9, 2006. She was given work-related medical restrictions as of July 11, 2006 but she chose not to work at all after that date. The claimant was released without restrictions as of August 7, 2006 but she still did not return to work. She called the employer on August 9, 2006 and voluntarily quit.

**REASONING AND CONCLUSIONS OF LAW:**

The issue is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code section 96.5-1.

In general, a voluntary quit requires evidence of an intention to sever the employment relationship and an overt act carrying out that intention. Local Lodge #1426 v. Wilson Trailer, 289 N.W.2d 608, 612 (Iowa 1980) and Peck v. Employment Appeal Bd., 492 N.W.2d 438 (Iowa Ct. App. 1992). The claimant demonstrated her intent to quit by not returning to work after July 11, 2006 even though she had been released to work with restrictions. She carried out that intent when she called the employer on August 9, 2006 and quit. At the time the claimant quit, she had no medical restrictions and had not been advised by her physician to quit her employment. Her decision to quit was for personal reasons.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code section 96.6-2. She has not satisfied that burden and benefits are denied.

**DECISION:**

The unemployment insurance decision dated October 3, 2006, reference 01, is affirmed. The claimant is not eligible to receive unemployment insurance benefits because she was discharged from work for misconduct. Benefits are withheld 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.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs