

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MACHELLE M STRAW

Claimant

APPEAL NO. 11A-UI-10692-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

CASEY'S GENERAL STORES

Employer

OC: 07/10/11

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Leaving

STATEMENT OF THE CASE:

The claimant filed an appeal from the August 1, 2011 (reference 01) decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call on September 6, 2011. Claimant participated. Employer participated through store manager Greg Allen. Employer's Exhibit 1 (pages 1 – 7) was admitted to the record. Claimant's Exhibit A (pages 1 – 20) was admitted to the record.

ISSUE:

The issue is whether claimant voluntarily left the 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: Claimant was employed full-time as a sales associate and cook and was separated from employment on July 9, 2011. She was a no-call, no-show on July 1, 6, 7, and 8, 2011. She called for July 4 and 5 to say she was ill. She did not call in on July 1, 6, 7, or 8, because she was upset about her pay question totaling ten cents per hour not being resolved. She was aware of the employer's policy that considers failure to call or report for two or more consecutive work days a voluntary leaving of employment. (Employer's Exhibit 1, pages 4 - 6)

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.

871 IAC 24.25(4) provides:

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:

(4) The claimant was absent for three days without giving notice to employer in violation of company rule.

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). In general, a substantial pay reduction or 25 to 35 percent reduction of working hours creates good cause attributable to the employer for a resignation. *Dehmel v. EAB*, 433 N.W.2d 700 (Iowa 1988).

Since the pay dispute was not substantial, that reason for leaving was without good cause attributable to the employer. An employer is entitled to expect its employees to report to work as scheduled or to be notified when and why the employee is unable to report to work. Although claimant argues that she did not intend to leave the job, since she knowingly failed to report for work or notify the employer for more than two consecutive workdays in violation of the employer policy, she is considered to have voluntarily left employment without good cause attributable to the employer. Benefits are withheld.

DECISION:

The August 1, 2011 (reference 01) decision is affirmed. The claimant voluntarily left her employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw