

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DENISE A BUCHANAN
114 W ELM ST
STRAWBERRY POINT IA 52076

CASEY'S MARKETING COMPANY
CASEY'S GENERAL STORE
c/o TALX UCM SERVICES
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-06216-HT
OC: 05/15/05 R: 04
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Quit

STATEMENT OF THE CASE:

The claimant, Denise Buchanan, filed an appeal from a decision dated June 2, 2005, reference 01. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on June 30, 2005. The claimant participated on her own behalf. The employer, Casey's General Store (Casey's), participated by Manager Carolyn Lammers.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Denise Buchanan was employed by Casey's from July 27, 2004 until May 15, 2005. She was a full-time cashier.

Ms. Buchanan submitted a written resignation on May 15, 2005, to Manager Carolyn Lammers. She was unhappy with her job and cited several reasons for her decision to quit. The precipitating event occurred on Friday, May 13, 2005, when the claimant and two other employees were taking a smoke break out in front of the store. Company policy specifically prohibits smoking in front of the store and leaving the store unattended. Employees are to smoke in the designated smoke area to the side of the store. The claimant had been counseled about this only a few weeks earlier when an area supervisor had driven by the store and seen her smoking out front.

Ms. Lammers admonished the claimant, saying she thought they had dealt with this already. The other two employees were likewise admonished about this and other matters, which had brought the manager to the store in the first place. Ms. Buchanan felt it was unacceptable for the manager to say anything to the other employees when there were customers in the store. However, the customers had arrived after the manager had already gone into the back to speak to the other employees.

That was the final event but the claimant was generally dissatisfied with her job. She felt she was being put upon because she was the cashier who closed the store. Complaints were made to the manager, who did talk to the other employees about their job duties, but the claimant felt her concerns were not being addressed because the counselings were given to the others in private and not in her presence. She felt she was not being given recognition for doing a good job, but the employer noted only accomplishments "above and beyond" regular duties. Ms. Buchanan was given special recognition when she successfully passed a "sting" operation by the local law enforcement agency, and the letter received by the store was posted on the bulletin board and the claimant specially noted for her success.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

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.

871 IAC 24.25(21) and (28) 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 section 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 section

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:

(21) The claimant left because of dissatisfaction with the work environment.

(28) The claimant left after being reprimanded.

The precipitating event which caused the claimant to resign was being reprimanded for violating a known company policy. She was well aware she was not to be smoking in front of the store with no one inside to watch the store. The employer had reprimanded her about this only a few weeks before, but she deliberately ignored the policy and the prior warning to commit the same offense. It is not unreasonable for the employer to admonish an employee in these circumstances. The fact the claimant took exception to this is unfortunate, but she could have avoided the reprimand by following the established policy.

In addition, the claimant was generally dissatisfied with her job. While the administrative law judge does not doubt that retail establishments of this sort do create a lot of work and stress, there was nothing extraordinary about the claimant's job duties and responsibilities. The record establishes she did not have good cause attributable to the employer and she is disqualified.

DECISION:

The representative's decision of June 2, 2005, reference 01, is affirmed. Denise Buchanan is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount, provided she is otherwise eligible.

bgh/sc