

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

KIMBERLY A MCDERMOTT

Claimant

and

CASEY'S MARKETING COMPANY

Employer

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HEARING NUMBER: 16B-UI-13342

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A, 24.32-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. A majority of the Appeal Board, one member dissenting, finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Kimberly A. McDermott, worked for Casey's Marketing Co. from September 30, 2015 through October 29, 2015 as a part-time floater. (7:10-7:46, Exhibit 3) The Claimant informed the Employer that she had medical issues for which she intended to apply for disability. (8:44-8:59) Ms. McDermott missed work on October 10th. (10:06) She left work approximately five minutes after she arrived at work on the 25th; and she called off work the following day, which resulted in the Employer's issuing a corrective action. (10:07-10:17)

The Claimant had also been absent for a week for which she presented a doctor's note to the Employer. (11:19-11:30) In response, the Employer told her that she needed to sign the necessary paperwork, but the Claimant told her that she was going to quit and apply for disability. (9:22-9:36; 13:00-13:37) The Employer still had work available to her. (9:00-9:05; 9:43-9:48)

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.5(1) (2013) provides:

An individual shall be disqualified for benefits: *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 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...

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code §96.6(2) (amended 1998).

The findings of fact show how we have resolved the disputed factual issues in this case. We have carefully weighed the credibility of the witnesses and the reliability of the evidence. We attribute more weight to the Employer's version of events. Both parties agree that Ms. McDermott had medical issues that caused her to miss work. When the Employer tried to discuss the matter with her after issuing a corrective action, the Claimant reiterated her intention to quit and to file for disability. The fact that the Employer had her sign a resignation letter, which she mistook for a reprimand, is not probative that she was terminated as she so argues. Based on this record, we conclude that the Claimant intended to sever her relationship with the Employer, which she initiated when she told the Employer of her intention to do so, and when she signed the resignation form. Her decision to quit was for medical reasons for which she provided no documentation to support that it was based on her physician's medical advice.

DECISION:

The administrative law judge's decision dated December 22, 2015 is **REVERSED**. The Claimant voluntarily quit without good cause attributable to the Employer. Accordingly, the Claimant is denied benefits.

Kim D. Schmett

James M. Strohman

DISSENTING OPINION OF ASHLEY R. KOOPMANS:

I respectfully dissent from the majority decision of the Employment Appeal Board; I would affirm the administrative law judge's decision in its entirety.

Ashley R. Koopmans

AMG/fnv